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"proper" vehicle? And what is a "proper" mode of operation? The answers to these questions are to be found in the decisions of the courts and in the enactments of the legislature. This volume the compiler hopes will render available to investigators the answers that have been recorded in the books.

The "unwritten law" relating to motor vehicles has developed to a point where it would seem that substantially all of the fundamental rules have been established. The statutory law has passed through the formative process and has become a well rounded-out code of rules designed to protect the public who use the highways, and also owners and drivers of vehicles. It is true that the legislatures of a few states have not spoken on the subject, and in a number of states the enactments are of the fragmentary character that has subjected American statute law to much adverse criticism. Furthermore, the stringent regulations that have been adopted in some jurisdictions have evoked much protest from motorists individually and through the clubs and associations. Therefore new enactments and amendments of the existing laws may be expected, and an investigator should examine late volumes of the session laws. All volumes of the laws which had appeared as late as the first of May, 1911, were consulted by the compiler of this book.

Authors of works of this character are not infrequently so impressed by the result of their labors as to assert that they have produced no mere text book or digest, but a "treatise." In candor the compiler hereof cannot make such a claim. Contrary to the usual experience he did not meet with almost insuperable difficulties; nor were his labors arduous to the limit of human endurance. He found his task congenial and entertaining—at most it required but a little industry in extracting all of the points from the cases, and a little ingenuity in devising a scheme for logical

has been made to secure a logical treatment of the subject for the assistance of investigators. Lastly, the writer by sad experience realizes what a disappointment it is to investigators to look up authorities glibly cited and find them not to support the propositions set forth. He hopes that none of the persons consulting this volume will meet with such an experience.

The law of aviation promises to be not merely a subject of academic discussion but one for the practical consideration of the courts. Aerial navigation is being extended so rapidly that it may be expected shortly to be a subject of numerous judicial decisions. The compiler has endeavored to present the views that have been expressed upon this subject, and to solve some of the problems that are certain to arise.

B. D.

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THE LAW OF MOTOR VEHICLES.

CHAPTER I.

DEFINITIONS AND DESCRIPTIVE TERMS.

- § 1. General Definitions.
- 2. Vehicles within Terms "Automobile," "Motor Vehicle," etc.
- 3. Terms Applied to Horse-drawn Vehicles Generally.
- 4. "Carriage" as Term Embracing Motor Vehicles.
- 5. Tool or Implement of Trade—Exemption Statute.
- 6. "Household Effects."
- 7. "Owner."
- 8. Driver—Chauffeur.
- 9. Automobile Tires—Assessment for Duty.
- 10. Judicial Notice of Motor Vehicles.

§ 1. General Definitions.

An automobile or motor car is a wheeled vehicle,¹ for transporting persons² and merchandise. In one of the earlier cases the court said: "The automobile is a vehicle in common use for transporting both persons and merchandise upon public ways."³ It is self propelled⁴ by power developed by steam, electricity, or the explosion of gaso-

¹ *Baker v. Fall River*, 187 Mass. 57, 72 N. E. 336; *Thies v. Thomas*, 77 N. Y. Supp. 276; *Com. v. Hawkins*, 14 Pa. Dist. Ct. 592.

² *Baker v. Fall River*, 187 Mass. 57, 72 N. E. 336; *Com. v. Hawkins*, 14 Pa. Dist. Ct. 592.

³ *Baker v. Fall River*, 187 Mass. 53, 57, 72 N. E. 336.

⁴ *Thies v. Thomas*, 77 N. Y. Supp. 276.

line vapor.⁵ The term "motor vehicles" as used in the following pages has reference, when unqualified, to vehicles coming within this definition.

§ 2. Vehicles within Terms "Automobile," "Motor Vehicle," etc.

The vehicles comprehended by the terms "automobile" and "motor vehicle," as used in statutes regulating the use of such vehicles, have been indicated by the acts themselves in many instances.⁶ All vehicles propelled by power, other than muscular power, are included within the term "motor vehicles," as broadly defined in many statutes. Certain vehicles usually are expressly excepted from this comprehensive definition.⁷ The term "heavy motor car" has been applied by statute to any motor car exceeding two tons in weight unladen.⁸

A motorcycle is propelled by an internal combustion engine in the same manner as are the majority of automobiles. It moves with the same high speed as a four-wheeled motor vehicle, and has many of the features of such vehicle.⁹ With consideration to the points of similarity between the two types of vehicle it has been held that motorcycles are within the meaning of the term "motor vehicles."¹ And

⁵ *McFern v. Gardner*, 121 Mo. App. 10, 97 S. W. 972; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁶ Consult local statutes set out in the appendix.

⁷ *Ayres v. Chicago*, 239 Ill. 237, 87 N. E. 1074; *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 878; *People v. Smith*, 156 Mich. 173, 120 N. W. 581, 16 Ann. Cas. 607; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁸ *Evans v. Nicholl*, [1909] 1 K. B. (Eng.) 782, 78 L. J. K. B. 428, 100 L. T. N. S. 496, 73 J. P. 154, 7 Local Gov. Rep. 386, 25 Times L. Rep. 239.

⁹ *Dunkelbarger v. McFerren*, 149 Ill. App. 632.

¹ *People v. Smith*, 156 Mich. 173, 120 N. W. 581, 16 Ann. Cas. 607.

there would seem to be no question but that a motorcycle is within a statute referring to any automobile or "conveyance of a similar type or kind."² But in some instances the statutory definitions of motor vehicles expressly exclude motorcycles.³

Road rollers are not automobiles according to the definition of the latter term as it appears in some statutes.⁴ Likewise, traction engines ordinarily are not comprehended by the terms "automobile" or "motor vehicle." The compound word "motor-vehicle," as used in a statute regulating the use of such vehicles, means a vehicle operated by power developed within itself and used for the purpose of carrying passengers or materials. A traction engine, like a locomotive, carries neither passengers nor materials; it draws other vehicles which may carry either. Therefore the word "motor-vehicle," as used in the act, does not extend to a traction engine used on the public road to haul loaded carts and wagons.⁵ Nevertheless, traction engines may be within the intention of statutes regulating the use of motor cars.⁶ The statutes, however, frequently except traction engines from the vehicles coming within the definition of the term "motor vehicles."⁷

² *Dunkelbarger v. McFerren*, 149 Ill. App. 630.

³ *Ayres v. Chicago*, 239 Ill. 237, 87 N. E. 1074.

⁴ *Ayres v. Chicago*, 239 Ill. 237, 87 N. E. 1074; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁵ *Automobiles*, 18 Pa. Dist. Ct. 451, 36 Pa. Co. Ct. 157.

A traction engine is defined to be "a locomotive engine for drawing heavy loads upon common roads, or over arable land, as in agricultural operations." *Toedtemeier v. Clackamas County*, 34 Ore. 70, 54 Pac. 954.

⁶ *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582 (holding that registration is necessary).

⁷ *Ayres v. Chicago*, 239 Ill. 237, 87 N. E. 1074; *People v. Smith*, 156 Mich. 173, 120 N. W. 581, 16 Ann. Cas. 607.

Vehicles running upon rails or tracks are not included within the terms usually used to describe automobiles;⁸ and the statutory definitions of "automobile" or "motor car" expressly declare that vehicles running on tracks shall not be included within those terms.⁹

§ 3. Terms Applied to Horse-drawn Vehicles Generally.

As to whether automobiles are included within terms that have been used customarily to describe vehicles drawn by horses the authorities are not agreed. An automobile used for hire is a vehicle within the meaning of an ordinance providing that "vehicles for hire, seeking employment, shall not stop or loiter upon any street."¹ And under a statute authorizing the passage of an ordinance for the collection of a license fee upon wagons and other vehicles conveying goods upon public streets and alleys in cities and villages, and an ordinance making it unlawful to use any wagon or other vehicle in the transportation of persons and property upon the public streets of the city unless the wagon or other vehicle is licensed, an automobile when in use upon the public streets of the city, whether used for pleasure or for hire, if persons are carried therein, within the meaning of the statute and ordinance, is in use for carrying a load, and it

⁸ While street cars propelled by electricity under some conditions may be comprehended by the term "horseless vehicle," such is not the case where the term appears in one section of police regulations and other sections distinguish street cars from all other vehicles, public or private, and deal with them as a class. *Hall v. District of Columbia*, 33 App. Cas. (D. C.) 80.

⁹ *Ayres v. Chicago*, 239 Ill. 237, 87 N. E. 1074; *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 878; *People v. Smith*, 156 Mich. 173, 120 N. W. 581, 16 Ann. Cas. 607; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

¹ *Gassenheimer v. District of Columbia*, 26 App. Cas. (D. C.) 557, 6 Ann. Cas. 920.

cannot be used unless a license is procured.² But a statute providing that "hacks, cabs, omnibuses, and other vehicles for transportation of passengers for hire" shall pay a certain license fee has been held not to be applicable to electric carriages and automobiles. In arriving at this decision the court said: "The terms 'other vehicles' were intended manifestly to embrace only such other vehicles as were *ejusdem generis*. It was not intended certainly to embrace every conceivable vehicle that might thereafter be invented and brought into use. It is not pretended that every vehicle that is run upon the streets for the carriage of passengers is subject to a license tax under the provision of the act of the legislative assembly in question. Bicycles and tricycles are vehicles that are daily and constantly used for the transportation of persons, but no one pretends that they are subject to the license tax, though they may be hired to the persons who use them. The electric carriage or automobile, though a vehicle, does not belong to the class or classes of vehicles made the subjects of the tax by the provision of the act of the legislative assembly. It is not fair to assume, if these electric carriages had been known and in use at the time the license act was passed, that the rate of license would have been the same for their use as the rate prescribed in the act for other vehicles. Indeed, there would have been strong reasons for a rate less in amount; as they cause less wear and breaking of the streets, and produce greatly less filth and dirt than result from vehicles worked by horses."³

A statutory provision that "every person who shall ride or drive" in a certain manner shall be punished has been

² Harder v. Chicago, 235 Ill. 294, 85 N. E. 255.

³ Washington Electric Vehicle Transp. Co. v. District of Columbia, 19 App. Cas. (D. C.) 469.

held to include persons operating motor cars, the court saying: "The language used in this section is exceedingly broad: 'Every person who shall ride or drive faster than a common traveling pace.' The words 'ride or drive' are not confined to animals; they are not limited in any manner whatsoever. Anything capable of being ridden or driven comes within the purview of the act. It is argued that the words 'ride or drive' are apt words in a statute designed to limit the fast driving of horses upon the highways of the state. They are apt, but they are not restricted to horses by the terms of the section. They are also apt in the case of bicycles, motorcycles, or automobiles when ridden or driven. In construing statutes of this kind it is usual and proper to consider the scope and purpose of the act and the danger or mischief that it was intended to guard against. The act was evidently passed for the protection of the public against the dangers incident to fast riding and driving of any sort, not only of the kind with which the legislators were familiar at the time, but also any kind of dangerous riding or driving."⁴

§ 4. "Carriage" as Term Embracing Motor Vehicles.

Whether an automobile is comprehended by the term "carriage" depends chiefly upon the sense in which that term is used.⁵ The automobile is a "carriage" in a broad sense of the word.⁶

State v. Thurston, 28 R. I. 265, 66 Atl. 580.

⁵ Parker v. Sweet, (Tex.) 127 S. W. 881.

⁶ Doherty v. Ayer, 197 Mass. 245, 83 N. E. 677, 125 Am. St. Rep. 355; Com. v. Hawkins, 14 Pa. Dist. Ct. 592; Parker v. Sweet, (Tex.) 127 S. W. 881.

It has been said: "An automobile is essentially a carriage used for identically the same purposes as the horse-drawn carriages of our fathers' days, the principal difference between the two being the mo-

In statutes the term "carriage" may or may not include the automobile, according to the construction to be placed upon the term under the recognized rules for the construction of statutes.⁷ If the statute is a penal one a strict construction is the rule, and the term "carriage" may be held not to include an automobile.⁸ On the other hand if the statute is one which under all the canons of construction is to be liberally construed, the term "carriage" may be held to include an automobile.⁹ An exemption statute, for example, is within this rule.¹ The view has been expressed that an automobile is a "carriage of burden or pleasure" within the meaning of this description as used in a statute permitting turnpike companies to collect toll for the passage over their roads of any "coach, . . . sulky, . . . chaise, phaeton, . . . wagon or any other carriage of burden or pleasure."² It has been held that a motor bicycle is within the term "carriage" as that term is used in a statute requiring a license for the keeping of "any carriage drawn or propelled upon a road or tramway, or elsewhere than upon a railway, by steam, electricity, or any other mechanical power."³

In contracts the term "carriage," when unrestricted, is broad enough to include an automobile,⁴ and this is true although automobiles had not been invented at the time when the contract was formed. Accordingly it has been

tive power employed. From the standpoint of utility no distinction can be made between the two." *Parker v. Sweet*, (Tex.) 127 S. W. 881.

⁷ *Parker v. Sweet*, (Tex.) 127 S. W. 881.

⁸ *Com. v. Goldman*, 205 Mass. 400, 91 N. E. 392.

⁹ *Parker v. Sweet*, (Tex.) 127 S. W. 881.

¹ *Parker v. Sweet*, (Tex.) 127 S. W. 881.

² *Scranton v. Laurel Run Turnpike Co.*, 225 Pa. St. 82, 73 Atl. 1063.

³ *O'Donoghue v. Moon*, 90 L. T. N. S. (Eng.) 843.

⁴ *Diocese of Trenton v. Toman*, 74 N. J. Eq. 702, 70 Atl. 606.

held that an automobile is a "carriage" within the meaning of a covenant in a deed reserving a strip of land for a "carriageway."⁵ In the case cited it was contended that the servitude extended only to horse-drawn vehicles, and that the word "carriage way," as used by the parties to the conveyance, did not admit of an "automobile way." To this proposition the court dissented, saying: "The words 'carriage way,' and 'wagon or carriage alley' are those in the deed designating the use to which the alley way may be put. No particular kind of carriage or wagon is mentioned. Although automobiles had not been invented at the time the easement was created, yet the language of the grant is unrestricted, and must be held to include any vehicle on wheels then or thereafter to be used."

A bequest of "carriages" includes motor cars.⁶ And this is true although the testator, at the time of executing his will, was possessed only of carriages and horses, which he subsequently sold and replaced with the motor cars.⁷

§ 5. Tool or Implement of Trade—Exemption Statute.

The automobile has been held not to be a tool or an implement of trade within the meaning of the homestead law exempting tools and implements of trade belonging to the head of a family.⁸

⁵ Diocese of Trenton v. Toman, 74 N. J. Eq. 702, 70 Atl. 606.

⁶ In re Dennis, 24 Times L. Rep. (Eng.) 499.

⁷ Denholm's Trustees v. Denholm, [1908] Sc. Ct. Sess. 43.

⁸ Eastern Mfg. Co. v. Thomas, 82 S. C. 509, 64 S. E. 401.

"Factory"—Does Not Include Traction Engine.—A threshing machine and traction engine in transit to a place where they are to be used for threshing, the engine being connected with the machine for no purpose but that of haulage, do not constitute a "factory" within the meaning of that term as used in a factory and workshop act or a workman's compensation act. *George v. Macdonald*, [1903] W. N. (Eng.) 159.

§ 6. "Household Effects."

A devise of "my household effects" has been held to include motor cars in use by the testator at the time of his death."¹

But automobiles are not exempt from duty under the provisions of the statute¹ admitting "books, libraries, usual and reasonable furniture, and similar household effects" used abroad not less than one year. The reason for this is that the word "similar" which was inserted in the act of 1897 indicates that Congress intended to do away with the exemption of household effects generally, and to restrict it to such as are like books, libraries, or household furniture. Automobiles are not similar to these articles.²

§ 7. "Owner."

The term "owner" in a statute regulating the use of automobiles has been declared to include any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.³

§ 8. Driver—Chauffeur.

The word "chauffeur," it has been said, involves the idea of a person having charge of or operating an automobile.⁴ And by statute the term "chauffeur" has been declared to mean any person operating or driving a motor vehicle as an employee or for hire.⁵

¹ In re Howe, [1908] W. N. (Eng.) 223.

² Act of Congress July 24, 1897, c. 11, § 1, 30 St. L. 167, 2 Fed. St. Ann. 486.

³ U. S. v. Grace, 166 Fed. 748, 92 C. C. A. 596, *explaining* Hillhouse v. U. S., 152 Fed. 163, 81 C. C. A. 415, which *reversed* 142 Fed. 303.

⁴ N. Y. Laws 1910, c. 374.

⁵ Shamp v. Lambert, 142 Mo. App. 567, 121 S. W. 773.

⁶ N. Y. Laws 1910, c. 374.

The driver of a motor omnibus who, when out with the omnibus, has to do such necessary repairs to it as he is able to do, is a person "otherwise engaged in manual labor" within the meaning of that expression as used in a statute regulating the rights of employers and employees.⁶

§ 9. Automobile Tires—Assessment for Duty.

Detached automobile tires imported in the same crate with an automobile are to be considered as part of the automobile and assessed for duty as "manufactures wholly or in part of metal," and not considered as separate articles of importation assessable as manufactures of india rubber, although the automobile when used may be equipped with different tires.⁷

§ 10. Judicial Notice of Motor Vehicles.

The courts will take judicial notice of automobiles, their characteristics, and the consequences of their use.

It is a fact of which courts will take judicial notice, that automobiles on highways, especially where they are infrequent, have a tendency to frighten animals.⁸ In one of the earlier cases the court said, in taking judicial notice of what an automobile is: "Its use as a vehicle for traveling is comparatively recent. It makes an unusual noise. It can be and usually is made to go on common roads at greater velocity—at a speed many times greater than that of ordinary vehicles hauled by animals; and beyond doubt

⁶ *Smith v. Associated Omnibus Co.*, [1907] 1 K. B. (Eng.) 916, 76 L. J. K. B. 574, 96 L. T. N. S. 675, 71 J. P. 239, 23 Times L. Rep. 381 (construing the Employer and Workman Act, 1875, § 10), *distinguishing* *Cook v. North Metropolitan Tramways Co.*, 18 Q. B. D. 683, 56 L. J. Q. B. 309. Similarly a chauffeur is a "workman." *Doggett v. Waterloo Taxicab Co.*, [1910] 2 K. B. 336, 102 L. T. N. S. 874, 79 L. J. K. B. 1055, 54 Sol. J. 541, 26 Times L. Rep. 49.

⁷ *U. S. v. Auto Import Co.*, 168 Fed. 242, 93 C. C. A. 456.

⁸ *Rochester v. Bull*, 78 S. C. 249, 58 S. E. 766.

it is highly dangerous when used on country roads, putting to great hazard the safety and lives of the mass of the people who travel on such roads in vehicles drawn by horses. Fearful accidents to persons driving animals which are frightened into unmanageable terror by automobiles are of common occurrence."⁹

Judicial notice may be taken of motor vehicles in the absence of statutes, it seems;¹ and authority is conferred by the statutory provision that courts take judicial notice "of the true significance of all English words and phrases."² Judicial knowledge extends to such matters as the usual characteristics of motor vehicles, the extent of their use, the mode in which they are operated, and many of the results of their operation upon the highways, as, for example, that they tend to frighten some horses.³ So the court may take judicial cognizance of the fact that a passenger automobile even when going at a rapid rate of speed yields ready and quick obedience to the steering wheel in the hands of a competent driver.⁴ But the court cannot judicially know the capabilities of a particular motor vehicle, with reference to the facility with which speed may be produced or with which it may be stopped.⁵

⁹ *In re Berry*, 147 Cal. 523, 82 Pac. 44, 109 Am. St. Rep. 160.

¹ See *Rochester v. Bull*, 78 S. C. 249, 58 S. E. 766.

² *In re Berry*, 147 Cal. 523, 82 Pac. 44, 109 Am. St. Rep. 160.

³ *Gagnon v. Robitaille*, 16 Rev. Leg. N. S. (Can.) 235, holding that the court knows that the custom of vehicles is to keep to the right upon meeting. See *Bayles v. Plumb*, 126 N. Y. Supp. 426, for a case of judicial notice as to the effect of a collision between motor vehicles.

⁴ *Minneapolis St. R. Co. v. Odegaard*, 182 Fed. 58.

⁵ *Union Traction Co. v. Howard*, (Ind.) 87 N. E. 1106.

CHAPTER II.

LEGAL STATUS.

- § 11. Motor Vehicle as Dangerous Device.
- 12. Danger in Use on Highway.
- 13. Inherent Danger.
- 14. Basis of Liability for Injuries Caused by Motor Vehicles.
- 15. Liability for Injury Where Vehicle Is Left Unattended.
- 16. Legality of Use on Highway.
- 17. Relative Rights of Motorists and Other Users of Highway.
- 18. Use on Highway as Constituting Nuisance.

§ 11. Motor Vehicle as Dangerous Device.

The automobile is not necessarily a dangerous device or agency.¹ It has been said: "There is nothing inherently dangerous about an automobile any more than about an axe. Both are harmless so long as no one attempts to use them, and both are likely to injure those who come in contact with them when they are used for the purpose for which they were intended."² And it has been said: "The automobile is not necessarily a dangerous device. It is an ordinary vehicle of pleasure and business. It is no more dangerous *per se* than a team of horses and a carriage, or a gun, or a sailboat, or a motor launch."³

§ 12. Danger in Use on Highway.

But the use of motor vehicles has introduced a new element of danger to travelers on the highway,⁴ owing to

¹ Brinkman v. Pacholke, 41 Ind. App. 666, 84 N. E. 762.

² Danforth v. Fisher, 75 N. H. 111, 71 Atl. 535, 21 L.R.A. (N.S.) 93.

³ Cunningham v. Castle, 127 App. Div. 580, 111 N. Y. Supp. 1057.

⁴ Lewis v. Amorous, 3 Ga. App. 57, 59 S. E. 338; Gregory v. Slaugh-

their operation by unskilled and reckless drivers.⁵ It has been said that the propelling of automobiles is universally recognized as being attended with great danger to the traveling public who make use of the streets.⁶ And it has been said: "To persons riding along or crossing our public roads, and especially our city streets, the rapidly moving automobile is a constant source of danger. Their great weight, speed power, and resulting momentum render the consequences of a collision with them much more serious than with ordinary carriages moving at even a higher rate of speed, and it is much more difficult to avoid, and much more confusing to attempt to avoid, the rapidly moving automobile than the street-railway car, which has a fixed and known direction and course upon its tracks."⁷ A similar view has been expressed as follows: "An automobile is nearly as deadly as, and much more dangerous than, a street car or even a railroad car. These are propelled along fixed rails, and all that the traveling public has to do to be safe is to keep off the tracks; but the automobile, with near-

ter, 124 Ky. 355, 99 S. W. 247, 8 L.R.A. (N.S.) 1228; *Weil v. Kreutzer*, 134 Ky. 563, 121 S. W. 472, 24 L.R.A. (N.S.) 557; *Com. v. Boyd*, 188 Mass. 79, 74 N. E. 255, 108 Am. St. Rep. 464; *Com. v. Kingsbury*, 199 Mass. 542, 544, 85 N. E. 848, 127 Am. St. Rep. 513; *McFern v. Gardner*, 121 Mo. App. 10, 97 S. W. 972; *Hall v. Compton*, 130 Mo. App. 675, 108 S. W. 1122; *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1; *Grant v. Armstrong*, 55 Wash. 365, 104 Pac. 632.

Heavy and rapidly moving motor cars "present risks and require care in their movement such as would not be incidental to the proper management of lighter vehicles." *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A. (N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137.

⁵ *Com. v. Boyd*, 188 Mass. 79, 74 N. E. 255, 108 Am. St. Rep. 464; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

⁶ *State v. Watson*, 216 Mo. 420, 431, 115 S. W. 1011.

⁷ *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572. To the same effect see *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163.

ly as great weight and more rapidity, can be turned as easily as can an individual, and for this reason is far more dangerous to the traveling public than either the street car or the railway train." ⁸

Nevertheless it is recognized that when properly handled and used, automobiles are as readily and effectually regulated and controlled as other vehicles in common use, and that, when so used, they are reasonably free from dangers. The dangers incident to their use as motor vehicles are commonly the result of the negligent and reckless conduct of those in charge of and operating them, and do not inhere in the construction and use of the vehicles. It is well known that they are being devoted to and used for the purposes of traffic and as conveyances for the pleasure and convenience of all classes of persons and without menace to the safety of those using them or to others upon the same highway when they are operated with reasonable care.⁹ In 1906 the New Jersey court said that "vehicles propelled by power within themselves now exist in great numbers, and must undoubtedly be considered as among the useful things at the disposal of mankind." ¹

§ 13. Inherent Danger.

The automobile is not so inherently dangerous² as to render an owner liable in the absence of wrongful act or omission. There is nothing in the construction, operation, and use of the automobile requiring that it be placed

⁸ *Weil v. Kreutzer*, 134 Ky. 563, 121 S. W. 471, 472, 24 L.R.A. (N.S.) 557.

⁹ *Steffen v. McNaughton*, 142 Wis. 49, 124 N. W. 1016, 26 L.R.A. (N.S.) 382.

¹ *O'Hara v. Nelson*, 71 N. J. Eq. 161, 629, 63 Atl. 836, 842.

² *Steffen v. McNaughton*, 142 Wis. 49, 124 N. W. 1016, 26 L.R.A. (N.S.) 382.

in the category with the locomotive, ferocious animals, dynamite, and other dangerous contrivances and agencies; and the owner is not liable to the same extent as the proprietor of such instrumentalities.³

§ 14. Basis of Liability for Injuries Caused by Motor Vehicles.

Negligence is the basis of liability ordinarily for injuries caused by the operation of motor vehicles.⁴ Accordingly, the owner of an automobile is not liable to one who has been injured by the car when driven by another person merely because the owner has made it possible for such person to operate the car upon the highway.⁵ And it is settled beyond dispute that the operation of an automobile in the highway is not in itself an act of negligence.⁶

³ *Danforth v. Fisher*, 75 N. H. 111, 71 Atl. 535, 21 L.R.A.(N.S.) 93; *Steffen v. McNaughton*, 142 Wis. 49, 124 N. W. 1016, 26 L.R.A.(N.S.) 382.

In *Lewis v. Amorous*, 3 Ga. App. 50, 55, 59 S. E. 338, it was contended that automobiles are to be classed with ferocious animals, and that the law relating to the duty of the owners of such animals is to be applied. The court said: "It is not the ferocity of automobiles that is to be feared, but the ferocity of those who drive them. Until human agency intervenes, they are usually harmless. While, by reason of the rate of pay allotted to judges in this state, few, if any, of them have ever owned one of these machines, yet some of them have occasionally ridden in them, thereby acquiring some knowledge of them; and we have, therefore, found out that there are times when these machines not only lack ferocity, but assume such an indisposition to go that it taxes the limits of human ingenuity to make them move at all. They are not to be classed with bad dogs, vicious bulls, evil-disposed mules, and the like."

⁴ *Simmons v. Lewis*, (Ia.) 125 N. W. 195; *Steffen v. McNaughton*, 142 Wis. 49, 124 N. W. 1016, 26 L.R.A.(N.S.) 382.

⁵ *Jones v. Hoge*, 47 Wash. 663, 92 Pac. 433, 14 L.R.A.(N.S.) 216, 125 Am. St. Rep. 915; *Steffen v. McNaughton*, 142 Wis. 49, 124 N. W. 1016, 26 L.R.A.(N.S.) 382. And see *infra*, §§ 206, 207.

⁶ *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann.

Whether the rule stated applies to traction engines depends upon circumstances. In communities where the traction engine has become a recognized vehicle upon the highways it is reasonable to hold that the owner of such a vehicle is liable only in case he has been guilty of negligence.⁷ In other localities where such engines have not become a recognized legal mode of conveyance, the owner may be held liable absolutely for damage done by taking one upon the highway—fire set by sparks, for example.⁸

§ 15. Liability for Injury Where Vehicle Is Left Unattended.

Likewise, leaving a motor vehicle unattended in the highway is not negligence on the part of the operator.⁹ Accordingly if a motor vehicle is left standing in the street and it is started by mischievous persons, the owner is not liable for damage caused by it.¹ An electric auto truck was left by the chauffeur for ten or fifteen minutes while delivering goods, with the power shut off and disconnected from the machine and the brakes set. Some mischievous boys started the machine, and it ran into a store. It was held that the owner of the vehicle was not liable for the resulting damage, because the proximate cause of the injury was not the leaving of the truck unattended, but the wilful act of the boys in starting it.² Similarly where two boys started an

Cas. 656, 1 L.R.A.(N.S.) 238; *Walkup v. Beebe*, 139 Ia. 399, 116 N. W. 321.

⁷ See *infra*, § 209.

⁸ *Gunter v. James*, 72 J. P. (Eng.) 448, 6 Local Gov. Rep. 1138, 24 Times L. Rep. 868.

⁹ *Vincent v. Crandall, etc., Co.*, 131 App. Div. 200, 115 N. Y. Supp. 600.

¹ *Berman v. Schultz*, 84 N. Y. Supp. 292, on former appeal, 40 Misc. 212, 81 N. Y. Supp. 647.

² *Vincent v. Crandall*, 131 App. Div. 200, 115 N. Y. Supp. 600.

automobile delivery truck that the driver had left standing in front of a house into which he had gone to deliver goods, and the truck collided with a horse and wagon, it was held, in an action against the owner of the truck, that the proximate cause of the injury was the intervening act of third persons, and that therefore the defendant was not liable.³

It is not the duty of the driver of a motor vehicle, when leaving the vehicle on the street to deliver goods, to chain it to a post, or in some way fasten it so that it is impossible for it to be started by the act of a third party.⁴

The use of a steam roller in the repair or construction of a highway, which is open to travel, is lawful; and it is not negligence *per se* to permit the machine to stand on the highway at rest over Sunday, when a reasonably necessary incident to such use.⁵

§ 16. Legality of Use on Highway.

That motor vehicles, in the absence of restrictive statute, lawfully may be used upon city streets and rural highways is undisputed. The right to use such vehicles is established by numerous decisions.⁶ It has been said that the motor

³ *Berman v. Schultz*, 40 Misc. 212, 81 N. Y. Supp. 647.

⁴ *Berman v. Schultz*, 84 N. Y. Supp. 292.

Horse Taking Fright at Automobile left standing in highway, see *infra*, § 127.

⁵ *Keeley v. Shanley*, 140 Pa. St. 213, 21 Atl. 305, 27 W. N. C. 363.

⁶ *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572; *Simeone v. Lindsay*, 6 Penn. (Del.) 226, 65 Atl. 778; *Christy v. Elliott*, 216 Ill. 31, 74 N. E. 1035, 3 Ann. Cas. 487, 1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196; *Chicago v. Banker*, 112 Ill. App. 99; *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359; *Brinkman v. Pacholke*, 41 Ind. App. 662, 666, 84 N. E. 762; *Haynes Automobile Co. v. Sinnett*, (Ind.) 91 N. E. 172; *Walkup v. Beebe*, 139 Ia. 399, 116 N. W. 321; *Delfs v. Dunshee*, 143 Ia. 381, 122 N. W. 239; *McDonald v. Yoder*, 80 Kan. 27, 101 Pac. 468; *Shinkle v. McCullough*, 116 Ky. 965, 77 S. W. 196, 105 Am. St. Rep. 249;

car is a recognized, though modern, means of conveyance, and, subject to such restrictions as the legislature has chosen to impose with regard to its operation upon highways, may be lawfully used upon them in the same way and with the same freedom as a wagon, carriage, cart, or other less modern vehicle.⁷

The fact that the automobile is a comparatively recent invention does not affect the rightfulness of its use, as the ordinary highway is open to all suitable methods of locomotion.⁸ In the leading case on this point Judge Cooley said: "When the highway is not restricted in its dedication to some particular mode of use, it is open to all suitable methods; and it cannot be assumed that these will be the same from age to age, or that new means of making the way useful must be excluded merely because their introduction may tend to the inconvenience or even to the injury of those who continue to use the road after the same manner as formerly. A highway established for the general benefit of passage and traffic must admit of new methods of use whenever it is found that the general benefit requires them."⁹

Fletcher v. Dixon, 107 Md. 420, 68 Atl. 875; Doherty v. Ayer, 197 Mass. 244, 83 N. E. 677, 14 L.R.A.(N.S.) 816, 125 Am. St. Rep. 355; Liebrecht v. Crandall, 110 Minn. 454, 126 N. W. 69, 70; McFern v. Gardner, 121 Mo. App. 10, 97 S. W. 972; Hall v. Compton, 130 Mo. App. 675, 108 S. W. 1122; Mason v. West, 61 App. Div. 40, 70 N. Y. Supp. 478; Knight v. Lanier, 69 App. Div. 454, 74 N. Y. Supp. 999; Murphy v. Wait, 102 App. Div. 121, 92 N. Y. Supp. 253; Spangler v. Markley, 39 Pa. Super. Ct. 351; Grant v. Armstrong, 55 Wash. 365, 104 Pac. 632.

⁷ McIntyre v. Coote, 19 Ont. L. Rep. 9, 16 Ann. Cas. 395.

⁸ Chicago v. Banker, 112 Ill. App. 94; Towle v. Morse, 103 Me. 250, 68 Atl. 1044; Mason v. West, 61 App. Div. 40, 70 N. Y. Supp. 478.

⁹ Macomber v. Nichols, 34 Mich. 217, 22 Am. Rep. 522, *approved* in Haynes Automobile Co. v. Sinnett, (Ind.) 91 N. E. 172; Fletcher v. Dixon, 107 Md. 420, 425, 68 Atl. 878; and Nason v. West, 31 Misc. 583, 65 N. Y. Supp. 651.

In many localities traction engines have come into such general use that they are considered vehicles legally entitled to be operated upon the highways,¹ and acts have been passed contemplating the use of the highways by traction engines.² Such acts practically sanction the use of traction engines on the highway.³

§ 17. Relative Rights of Motorists and Other Users of Highway.

Unless the rights of motorists have been abridged by statute,⁴ persons operating automobiles upon the streets have equal rights thereon with the users of other vehicles⁵ or

¹ *New Albany v. Stier*, 34 Ind. App. 619, 619, 72 N. E. 275; see *infra*, § 201.

² *Attorney-General v. Scott*, [1905] 2 K. B. (Eng.) 160, 93 L. T. N. S. 249, 74 L. J. K. B. 803, 69 J. P. 109, 3 Local Gov. Rep. 272, 21 Times L. Rep. 211; *New Albany v. Stier*, 34 Ind. App. 619, 72 N. E. 275 (holding that a steam road roller is not a "traction or road engine" within the meaning of the statute requiring a person to be sent ahead of such engines to warn drivers of horses of their approach).

³ *Reg. v. Chittenden*, 15 Cox C. C. (Eng.) 725, 49 J. P. 503.

⁴ *Statutes requiring motorists* to stop upon receiving a signal from the driver of a horse, for example. *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 878, on subsequent appeal, 77 Atl. 326.

⁵ *Cecchi v. Lindsay*, (Del.) 75 Atl. 377; *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A. (N.S.) 238; *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A. (N.S.) 1130, 117 Am. St. Rep. 359; *Brinkman v. Pacholke*, 41 Ind. App. 666, 84 N. E. 762; *Haynes Automobile Co. v. Sinnett*, (Ind.) 91 N. E. 172; *House v. Cramer*, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A. (N.S.) 655; *Simmons v. Lewis*, (Ia.) 125 N. W. 195; *Shinkle v. McCullough*, 116 Ky. 965, 77 S. W. 196, 105 Am. St. Rep. 249; *Gregory v. Slaughter*, 124 Ky. 355, 99 S. W. 247, 8 L.R.A. (N.S.) 1228, 124 Am. St. Rep. 402; *Webb v. Moore*, 136 Ky. 708, 125 S. W. 154; *Gurney v. Piel*, 105 Me. 501, 74 Atl. 1131; *Fletcher v. Dixon*, 107 Md. 426, 68 Atl. 878; *Wright v. Crane*, 142 Mich. 508, 106 N. W. 71; *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A. (N.S.) 601, 120 Am. St. Rep. 671; *McFern v. Gardner*, 121 Mo. App. 10, 97 S. W. 972; *O'Donnell v. O'Neill*, 130 Mo. App. 360, 109

with pedestrians.⁶ Needless to say, the drivers of motor vehicles have no exclusive right to the use of the streets.⁷ Nor have motor vehicles the right of way over other vehicles upon the highways.⁸

§ 18. Use on Highway as Constituting Nuisance.

Motor vehicles may constitute a nuisance upon the highway owing to their mode of construction, or method of operation,⁹ or the manner in which they are used. For example, an automobile race or speed contest in a city highway, whereby the public are excluded therefrom, is an unlawful use and obstruction of such highway and is *per se* a nuisance.¹

The running of a traction engine over a public highway upon a single occasion does not constitute a public nuisance,

S. W. 815; *Hall v. Compton*, 130 Mo. App. 675, 108 S. W. 1122; *Knight v. Lanier*, 69 App. Div. 454, 74 N. Y. Supp. 999; *Spangler v. Markley*, 39 Pa. Super. Ct. 351.

⁶ *Apperson v. Lazro*, 44 Ind. App. 195, 88 N. E. 99, *denying* rehearing of 44 Ind. App. 186, 87 N. E. 97; *Corcoran v. New York*, 188 N. Y. 131, 80 N. E. 660; *Gagnon v. Robitaille*, 16 Rev. Leg. N. S. (Can.) 235.

⁷ *Denver City Tramway Co. v. Wright*, 47 Colo. 366, 107 Pac. 1074; *Liebrecht v. Crandall*, 110 Minn. 454, 126 N. W. 70.

⁸ *Lorenz v. Tisdale*, 127 App. Div. 433, 111 N. Y. Supp. 173.

⁹ *Parker v. London Gen. Omnibus Co.*, 100 L. T. N. S. (Eng.) 409, 73 J. P. 283, 25 Times L. Rep. 429, *affirmed* 101 L. T. N. S. 623, 7 Local Gov. Rep. 1111, 53 Sol. J. 867. It has been said that "a machine that would go puffing and snorting through the streets, trailing clouds of steam and smoke, might be a nuisance." *Nason v. West*, 31 Misc. 583, 65 N. Y. Supp. 651. And see in respect of a traction engine, *Covington County v. Collins*, 92 Miss. 330, 45 So. 854, 15 Ann. Cas. 1072, 14 L.R.A. (N.S.) 1087, 131 Am. St. Rep. 527. As to the obstruction of the streets see *Robinson v. London Gen. Omnibus Co.*, 74 J. P. (Eng.) 161, 26 Times L. Rep. 233.

¹ *Johnson v. New York*, 186 N. Y. 139, 78 N. E. 715, 9 Ann. Cas. 824, 116 Am. St. Rep. 545, *reversing* 109 App. Div. 821, 96 N. Y. Supp. 754 (so holding where the city without authority so to do granted permission to hold the race).

it seems, in any case, because this may be necessary to remove it from one location to another, as in the case of a steam threshing machine, which is at certain seasons removed from one farm to another for the purpose of threshing out the farmers' crops;³ but the continuous use of an engine on the highway was held in an early case to constitute a nuisance,³ and if by reason of the construction of a traction engine or the mode in which it is operated the highway is to a substantial extent obstructed and rendered less commodious to the public, the use of the engine constitutes a nuisance and the owner may be indicted for producing a public nuisance,⁴ or enjoined from operating the engine.⁵ Moreover the use of traction engines of such

³ *Macomber v. Nichols*, 34 Mich. 212, 22 Am. Rep. 522; *Com. v. Allen*, 148 Pa. St. 358, 23 Atl. 1115, 16 L.R.A. 148, 33 Am. St. Rep. 830; *Road in Upper Mahanoy*, 2 Chest. Co. Rep. (Pa.) 375.

³ *Com. v. Allen*, 148 Pa. St. 358, 23 Atl. 1115, 16 L.R.A. 148, 33 Am. St. Rep. 830. In this case it appeared that the defendants operated a stone quarry from which they had been in the habit of hauling stone in the ordinary manner by horses. They procured a traction engine, by means of which they began hauling stone in two wagons, making a train from fifty to fifty-five feet long, which weighed when loaded from thirteen to fourteen tons. With this train they made two trips daily from their quarry to a railroad station, a distance of about three miles. There was evidence that the train by its noise and appearance interfered with travel over the road by frightening horses, and that it obstructed travel. The court held that such a use of the highway constituted a nuisance and that the maintenance of it was an indictable offense. See, also, *Watkins v. Reddin*, 2 F. & F. (Eng.) 629.

⁴ *Reg. v. Chittenden*, 15 Cox C. C. (Eng.) 725, 49 J. P. 503.

⁵ *Covington County v. Collins*, 92 Miss. 330, 45 So. 854, 15 Ann. Cas. 1072, 14 L.R.A.(N.S.) 1087, 131 Am. St. Rep. 527 (operation in violation of order of highway authorities); *McCarter v. Ludlum Steel, etc., Co.*, 71 N. J. Eq. 330, 63 Atl. 761. If, however, the obstruction of travel is only such as is occasioned by the use of horse-drawn vehicles the engine is not a nuisance. *Reg. v. Chittenden*, 15 Cox C. C. (Eng.) 725, 49 J. P. 503.

great weight as to damage the highway so that it cannot be kept in repair constitutes a nuisance, and may be enjoined at the suit of the municipality charged with the duty of maintaining the highways.⁶

⁶ Attorney-General v. Scott, [1904] 1 K. B. (Eng.) 404, 89 L. T. N. S. 726, 73 L. J. K. B. 196, 68 J. P. 137, 2 Local Gov. Rep. 461.

CHAPTER III.

REGULATION OF USE OF MOTOR VEHICLES.

§ 19. Scope of Treatment.

Existence of Power to Regulate.

20. Power of Federal Government.
21. Power of States.
22. Source of Power of States.
23. Power of Canadian Provinces.
24. Power of Municipal Corporations Generally.
25. Enactment of State Laws.
26. Effect of State Laws upon Power of Municipal Corporations.
27. Effect of Repeal of State Law.
28. Power of Highway or Park Boards.

§ 19. Scope of Treatment.

The power to regulate the use of automobiles, the validity of statutes and ordinances affecting such vehicles, and the interpretation of these laws in general, are the matters treated of in this and the following chapters on the regulation of the use of motor vehicles. The interpretation of acts and ordinances with respect to the civil or criminal liability incurred in their violation is considered elsewhere in this work.¹

This chapter embraces a statement of some general considerations relating principally to the existence of power in governmental bodies having authority over highways, to

¹ Consult the table of contents and index.

prescribe regulations for the operation and management of automobiles. The validity of particular regulations is considered in subsequent chapters.

Existence of Power to Regulate..

§ 20. Power of Federal Government.

Academic writers have considered the power of the United States Government to regulate the operation of motor vehicles passing from State to State and between the United States and foreign countries; and contradictory views have been expressed as to the existence of any such power. The Constitution of the United States confers upon Congress power "to regulate commerce with foreign nations and among the several States," and it is well known that this clause has been interpreted with considerable liberality. The purpose of this grant of power was to insure uniformity of law throughout the whole of the United States, it being feared that State legislation might be discriminatory. The "commerce" contemplated by the constitutional provision need not be trade or the interchange of commodities, but may consist in any intercourse or traffic between the States, including the transit of persons or property. These considerations would seem to lead to the conclusion that the Congress has power to regulate motor vehicles in respect of their interstate relations. Certainly commercial motor vehicles engaged in interstate traffic are not in a different class from railroad vehicles running on rails or vessels passing over the water; yet that the regulation of trains and vessels engaged in interstate commerce is within the power of Congress is settled conclusively.³

³ A bill has been introduced in the House of Representatives by Representative Cocks. See appendix.

The transportation of motor vehicles upon passenger vessels has been made the subject of an Act of Congress.³

The Canadian Parliament has power, it seems, to enact statutes regulating the use of automobiles.⁴

§ 21. Power of States.

Since the introduction of automobiles as vehicles of conveyance many cases have arisen and been decided by the courts of last resort in the different States respecting the validity of statutes regulating their use upon the public highways, and it has been held uniformly that the State may provide reasonable rules and restrictions as to their use.⁵

§ 22. Source of Power of States.

Such regulations are a legitimate exercise of the police power⁶ for the promotion of the safety of the public.⁷ In one of the earlier cases the court said: "There can be no question of the right of the legislature, in the exercise of the police power, to regulate the driving of automobiles and motorcycles on the public ways of the commonwealth. They are capable of being driven and are apt to be driven at such a high rate of speed, and when not properly driven are so

³ Act of Congress, Feb. 20, 1901, c. 386, 31 St. L. 799.

⁴ See *In re Rogers*, 7 East. L. Rep. (Can.) 212, 15 Ann. Cas. 1167.

⁵ *State v. Mayo*, (Me.) 75 Atl. 295, 297; *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 875; *Com. v. Kingsbury*, 199 Mass. 544, 85 N. E. 848, 127 Am. St. Rep. 513; *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671; *Hall v. Compton*, 130 Mo. App. 675, 108 S. W. 1122; *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 4.

⁶ *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671; *Hall v. Compton*, 130 Mo. App. 675, 108 S. W. 1122.

⁷ *Com. v. Kingsbury*, 199 Mass. 544, 85 N. E. 848, 127 Am. St. Rep. 513; *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163.

dangerous, as to make some regulation necessary for the safety of other persons on the public ways.”³

§ 23. Power of Canadian Provinces.

The legislatures of the provinces of Canada have power to regulate the operation of automobiles in some particulars;⁴ but such regulations must not trench upon the criminal law, the power to legislate upon which is vested exclusively in the Dominion Parliament.¹

§ 24. Power of Municipal Corporations Generally.

The state may delegate to its political subdivisions the power of regulating the operation of motor vehicles;² and a delegation of such power takes place, it seems, as an incident to the authority usually conferred upon municipalities.³

The power to protect its citizens in the use of its streets authorizes a city to pass ordinances regulating the operation of motor vehicles;⁴ and a grant of general powers over highways, together with authority to take means to secure the public safety, has the same effect.⁵

³ *Com. v. Boyd*, 188 Mass. 79, 74 N. E. 255, 108 Am. St. Rep. 464.

⁴ *In re Rogers*, 7 East. L. Rep. (Can.) 212, 15 Ann. Cas. 1167.

¹ *In re Rogers*, 7 East. L. Rep. (Can.) 212, 15 Ann. Cas. 1167.

² *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 4.

³ *Chicago v. Banker*, 112 Ill. App. 94; *State v. Larrabee*, 104 Minn. 37, 115 N. W. 948; *Brozier v. Philadelphia*, 215 Pa. St. 297, 64 Atl. 508, 7 Ann. Cas. 548; *Radnor Tp. v. Bell*, 29 Pa. Co. Ct. 444, *affirmed* 27 Pa. Super. Ct. 1; *Eichman v. Buchheit*, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435.

⁴ *Brazier v. Philadelphia*, 215 Pa. St. 297, 64 Atl. 508, 7 Ann. Cas. 548.

⁵ *Radnor Tp. v. Bell*, 29 Pa. Co. Ct. 444, *affirmed* 27 Pa. Super. Ct. 1.

§ 25. Enactment of State Laws.

The introduction of motor vehicles upon the streets and highways, and the improper manner in which they have frequently been operated, led to the adoption of numerous local ordinances restricting and regulating their use. These local laws were not only dissimilar and conflicting, but sometimes difficult to understand; and in view of the fact that the use of the automobile is not restricted to any particular locality, but extends from place to place throughout the State and to other States, it was impracticable for the operator to know what the regulations of a particular locality were until he had violated them. These circumstances have made necessary the enactment of State-wide laws,⁶ which usually have been designated as new, complete, and general enactments taking the place of all previous statutes, ordinances, or rules relating to the use of motor vehicles upon the streets and highways of the State.⁷

§ 26. Effect of State Laws upon Power of Municipal Corporations.

These statutes in many instances expressly declare local ordinances upon the same subject to be of no validity or effect in respect of some⁸ or all matters of regulation.⁹ In the absence of such a provision the question whether municipal ordinances are superseded and annulled by gen-

⁶ *Ayres v. Chicago*, 239 Ill. 245, 87 N. E. 1073; *Frisbie v. Columbus*, 80 Ohio St. 686, 89 N. E. 92.

⁷ *Ayres v. Chicago*, 239 Ill. 237, 245, 87 N. E. 1073; *Buffalo v. Lewis*, 192 N. Y. 193, 84 N. E. 809, *affirming* 123 App. Div. 163, 108 N. Y. Supp. 450.

⁸ *People v. Ellis*, 88 App. Div. 471, 85 N. Y. Supp. 120; *Bellingham v. Cissna*, 44 Wash. 397, 87 Pac. 481; *Peck v. Ogilvie*, 31 Quebec Super. Ct. 227, 8 Quebec Pr. 392.

⁹ *Frisbie v. Columbus*, 80 Ohio St. 686, 89 N. E. 92.

eral statutes is to be determined by the rules of law for the determination of the validity of ordinances generally, a subject upon which there exists a diversity of authority.

It has been held that if the ordinance seeks to impose a penalty for the commission of an act punishable by the statute law of the State it is void.¹ But the simple fact that the legislature has undertaken to impose regulations applicable to the entire commonwealth does not exclude the right of municipalities to impose other regulations adapted to their own peculiar conditions, provided these are not inconsistent or at variance with the law prescribed for the entire commonwealth;² though, of course, ordinances inconsistent with the general statute are annulled thereby.³

§ 27. Effect of Repeal of State Law.

The repeal of the general statute has been held not to revive an ordinance which was annulled thereby.⁴

¹ *State v. Thurston*, 28 R. I. 265, 66 Atl. 580.

² *Brazier v. Philadelphia*, 215 Pa. St. 297, 64 Atl. 508, 7 Ann. Cas. 548, *affirming* 15 Pa. Dist. Ct. 14. To the same effect is *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 725. In *Brazier v. Philadelphia*, *supra*, it appeared that a city had enacted an ordinance regulating the use of automobiles within the city limits in the matters of license, the proof of competency to operate automobiles, the exhibition of lights and license numbers, and speed. The court held that the ordinance was not superseded or annulled by a subsequent statute on the same subjects designed to operate through the entire State, the decision being based upon the ground that the two enactments were not so inconsistent that they could not stand together, and that it did not appear from the terms of the statute that it was intended to supplant the ordinance.

³ *Hartje v. Moxley*, 235 Ill. 164, 85 N. E. 216; *Brazier v. Philadelphia*, 215 Pa. St. 297, 64 Atl. 508, 7 Ann. Cas. 548, *affirming* 15 Pa. Dist. Ct. 14; *Radnor Tp. v. Bell*, 29 Pa. Co. Ct. 446.

⁴ The repeal of the Ohio act of 1906 by act of 1908 did not revive an ordinance which was annulled by the former act. *Frisbie v. Columbus*, 80 Ohio St. 686, 89 N. E. 92.

§ 28. Power of Highway or Park Boards.

Boards or bodies created by statute and clothed with general authority over certain highways may make rules and regulations governing the use of automobiles upon the ways within their jurisdiction.⁵

⁵ *Musgrave v. Kennison*, 92 L. T. N. S. (Eng.) 865, 69 J. P. 341, 3 Local Gov. Rep. 932, 21 Times L. Rep. 600; *Com. v. Crowninshield*, 187 Mass. 221, 72 N. E. 963, 68 L.R.A. 245; *People v. Shellenberg*, 133 App. Div. 79, 117 N. Y. Supp. 820.

CHAPTER IV.

REGULATION OF USE OF MOTOR VEHICLES (continued).

Validity of Laws Generally.

- § 29. As Exercise of Police Power.
- 30. As Conflicting with Constitutional Provisions.
- 31. Subject-matter and Titles of Acts.
- 32. Repeal of Earlier Laws by Later Enactments.

Exclusion from Highways.

- 33. Power of State Legislature to Exclude.
- 34. Power of Provincial Legislature to Exclude.
- 35. Power of Municipal Corporations to Exclude.
- 36. Power of Turnpike Companies to Exclude.
- 37. Reasonableness of Exclusion Laws.
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License or Registration of Vehicles and Display of Number.

- 39. Nature of Requirements.
- 40. Purpose of Requirements.
- 41. Validity of Requirements Generally.
- 42. Constitutional Objections Generally.
- 43. Power of Municipalities to Impose Requirements.
- 44. Application for License or Registration.
- 45. License or Certificate of Registration.
- 46. Sale and Registration.
- 47. Renewal of Registration.
- 48. Registration Fees.
- 49. Application of Laws to Particular Vehicles.
- 50. Application of Laws to Corporations or Partnerships.
- 51. Application of Laws to Manufacturers and Dealers.
- 52. Application of Laws to Nonresidents.
- 53. Number Tags, Plates, or Shields.

Taxation of Motor Vehicles.

- 54. Power of Municipal Corporations to Impose Tax.
- 55. Constitutionality of Tax Laws.

License of Drivers.

- § 56. Requirements Generally.
- 57. Purpose of Requirements.
- 58. Validity of Laws.
- 59. Application of Laws to Particular Persons.
- 60. Numbers, Marks, and Badges.

*Validity of Laws Generally.***§ 29. As Exercise of Police Power.**

The enactment of laws prescribing conditions to be complied with in the operation of motor vehicles is an appropriate exercise of the police power for the preservation of the safety of the public in the use of the streets and highways.¹ The New Jersey court has said in this connection: "Turning from the trolley car to the automobile, we see introduced into use on the highways a vehicle propelled by a power as great and capable of attaining speed still greater than a trolley car. We see a machine confined to no part of the street, and which, if driven by an inexperienced or reckless driver, is a menace to all who are entitled to use the street. It seems too obvious for further remark that the legislature has the same right to protect other users of the highways against these dangers as it has to guard them against the unrestricted movements of a trolley car. Therefore, the provisions of the statute which limit the rate of speed, which require the display of signals and the use of efficient brakes, are all appropriate to preserve safety in the use of the road."²

§ 30. As Conflicting with Constitutional Provisions.

The constitutionality of statutes regulating the operation

¹ See *supra*, §§ 22, 24.

² *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163.

of motor vehicles has been affirmed in numerous instances,³ the ground of objection that has most frequently been urged being that they conflict with the constitutional guaranty against "class legislation" or special laws. While at first blush these statutes may appear to be class legislation, reason and authority declare that such an act is not unconstitutional as a special law, because it legislates only respecting the operation of motor vehicles, and does not attempt to regulate the operation of all vehicles using the public highways.⁴ There is enough difference between power-impelled and animal-drawn vehicles to justify their separate classification for purposes of legislation.⁵

Likewise the acts under consideration have been held not to be in conflict with other constitutional provisions.⁶

³ *State v. Waterman*, (Minn.) 127 N. W. 473, considering Minn. Laws 1909, c. 259, § 16.

⁴ In *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671, it was urged that the act in question was a special law because it legislated only upon automobiles, and did not attempt to legislate upon all vehicles using the public highways. The court said: "We are unable to concur with the defendant in this view. The act applies to and affects alike all members of the same class; that is, every person, corporation, company, or copartnership engaged in operating any automobile by steam, gasoline, electricity, or other motive power, upon any of the public roads or highways of this state. It does not refer to particular persons or things of a class, and is, therefore, a general and not a special law."

A similar view was expressed in *Christy v. Elliott*, 216 Ill. 31, 74 N. E. 1035, 3 Ann. Cas. 487, 1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196, wherein the court said: "Such laws as the act here in question have never been regarded as class legislation, simply because they affect one class and not another, inasmuch as they affect all members of the same class alike, and the classification involved in the law is founded upon a reasonable basis."

⁵ See *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 724, 726 (the court, however, did not pass upon the question).

⁶ See *infra*, the cases passing upon the particular matters of regulation, considered in this and the next succeeding chapter.

§ 31. Subject-matter and Titles of Acts.

Also, statutes regulating the operation of motor vehicles have been sustained against the objection that they were in conflict with the requirement that a law shall embrace only one subject, which shall be expressed in its title. Thus it has been held that a statute entitled "An act to regulate the speed of automobiles and other horseless conveyances upon the public streets, roads, and highways of the State," and providing that the person driving an automobile shall cause the same to come to a full stop whenever it shall appear that any horse driven or ridden by any person upon any street, road, or highway is about to become frightened by the approach of any such automobile, until such horse has passed, is not in conflict with the constitutional requirement that no act shall embrace more than one subject, which shall be expressed in the title, because the subject-matter of said section is reasonably connected with the subject mentioned in the title of the act.⁷ Similarly, a municipal ordinance entitled "An ordinance to regulate the speed of animals, bicycles, tricycles, automobiles, motor cars, and other vehicles ridden, driven, or propelled upon and along the streets, avenues, alleys, and other public ways of the city," which contains a provision regulating the speed of automobiles and other vehicles, and in another section provides that such vehicles shall carry lighted lamps between sunset and sunrise and give warning of imminent danger by sounding a bell, whistle, horn, or gong, does not violate a statute providing that no ordinance shall contain more than one subject, which shall be clearly expressed in its title, as the subject treated of in the latter section is germane to the

⁷ *Christy v. Elliott*, 216 Ill. 31, 74 N. E. 1035, 3 Ann. Cas. 487, 1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196.

general object and purpose of the ordinance as indicated in its title.⁸

§ 32. Repeal of Earlier Laws by Later Enactments.

Former acts are repealed, ordinarily, by later laws which are complete in themselves.⁹ Where a later act covers the whole subject of earlier acts and embraces new provisions, and also plainly shows that it was intended not only as a substitute for the earlier acts but to cover the whole subject then considered by the legislature and to prescribe the only rules in respect thereto, it will operate as a repeal of all former statutes relating to such subject-matter even if such former acts are not in all respects repugnant to the new act.¹

Exclusion from Highways.

§ 33. Power of State Legislature to Exclude.

The right of a state legislature, acting under the police power, to prescribe that automobiles shall not pass over all or certain of the streets or public ways within the commonwealth seems to be established both upon principle and authority.²

§ 34. Power of Provincial Legislature to Exclude.

As the construction, repair, management, and control of the highways of a province are matters of a "merely local

⁸ *Chittenden v. Columbus*, 26 Ohio Cir. Ct. Rep. 531.

⁹ *Rockingham County v. Chase*, (N. H.) 71 Atl. 634.

¹ *Buffalo v. Lewis*, 192 N. Y. 193, 84 N. E. 809, *affirming* 123 App. Div. 163, 108 N. Y. Supp. 450.

The Pennsylvania Act of 1905 (Pub. L. 1905, p. 217) repealed the act of 1903 (Pub. L. 1903, p. 268). In *re Automobile Acts*, 15 Pa. Dist. Ct. 83.

² *Com. v. Kingsbury*, 199 Mass. 546, 85 N. E. 848, 127 Am. St. Rep. 513; *Walker v. Com.*, 40 Pa. Super. Ct. 638.

or private nature," which, under the British North America Act of 1867, are assigned exclusively to the provincial legislatures, the legislature of a province may prohibit the use of automobiles upon the highways. And the fact that the preamble to a statute enacted by such legislature, prohibiting the use of automobiles upon the highways, declares that the prohibition is for the "public interest," and for the "safety of the traveling public," does not indicate that such statute trenches upon the criminal law, the power to legislate upon which is vested exclusively in the Dominion Parliament.³

§ 35. Power of Municipal Corporations to Exclude.

It is also well settled that having such power the commonwealth may in its discretion delegate its authority either in whole or in part to its various municipal divisions.⁴

Municipal corporations, however, possess no powers except such as are conferred upon them by the legislature. Consequently it devolves upon a municipal corporation which has passed an ordinance excluding motor vehicles from the highway, to show that it has authority to promulgate such a law.⁵ It has been held that power to exclude motor vehicles from the highway is not conferred upon a municipality by a grant of authority to "take all needful means for securing the safety of persons and property," where such grant appears in the clause which confers upon the municipal officers authority to establish and maintain

³ *In re Rogers*, 7 East. L. Rep. (Can.) 212, 15 Ann. Cas. 1167.

⁴ *Com. v. Kingsbury*, 199 Mass. 542, 85 N. E. 848, 127 Am. St. Rep. 513; *Walker v. Com.*, 40 Pa. Super. Ct. 638.

⁵ *Walker v. Com.*, 40 Pa. Super. Ct. 638. See also the dictum in *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 726, that no such power exists in municipalities. And see *People v. Kipley*, (Ill.) 18 Nat. Corp. Rep. 874, denying the existence of power in a park board.

police and fire protection.⁶ And it has been held that power to exclude traction engines from the streets of a city is not conferred by a provision that the common council may make laws to regulate the use of "coaches, hacks, drays, and other vehicles for the transportation of passengers, freight, or other articles."⁷

Many of the State motor vehicle laws contain provisions prohibiting municipalities from excluding such vehicles from the streets and highways under their control,⁸ excepting parks, cemeteries, and driveways or speedways set apart for the use of horses.⁹ And some of the general statutes relating to licenses, speeds in different localities, etc., confer upon motorists who comply with their provisions the right to operate their vehicles upon all of the public highways of the State, unaffected by local enactments.¹

§ 36. Power of Turnpike Companies to Exclude.

A corporation chartered for the purpose of constructing and maintaining a toll road or turnpike, which is a public highway, cannot lawfully exclude motor vehicles from passage thereover.² But in order to establish the right to oper-

⁶ Walker v. Com., 40 Pa. Super. Ct. 638.

⁷ Bogue v. Bennett, 156 Ind. 478, 60 N. E. 143, 83 Am. St. Rep. 212.

⁸ Bellingham v. Cissna, 44 Wash. 397, 87 Pac. 481; Peck v. Ogilvie, 31 Quebec Super. Ct. 227, 8 Quebec Pr. 392.

⁹ Peck v. Ogilvie, 31 Quebec Super. Ct. 227, 8 Quebec Pr. 392. Consult local statutes.

¹ Walker v. Com., 40 Pa. Super. Ct. 638.

² Scranton v. Laurel Run Turnpike Co., 225 Pa. St. 82, 73 Atl. 1063. Compare Bertels v. Laurel Run Turnpike Co., 31 Pa. Co. Ct. 129, holding that turnpike companies, unless forbidden by legislative enactment, have the right, in the exercise of sound discretion, to exclude automobiles from the use of their roads, upon the ground

ate a motor vehicle over a turnpike road the owner of the vehicle must show a compliance with the statutory requirements. Accordingly, a petition for a writ of mandamus to compel a turnpike company to allow the petitioner to operate his automobile upon the defendant's road must aver compliance with the requirements that are made by statute essential to the use or operation of motor vehicles upon public highways in the commonwealth.³

§ 37. Reasonableness of Exclusion Laws.

It would seem that laws forbidding the operation of motor vehicles upon certain thoroughfares may be regarded as reasonable, and an ordinance excluding such vehicles from the highways during certain hours has been upheld.⁴ No doubt the reasonableness of such an ordinance is to be presumed.⁵ But it may be doubted whether a total exclu-

that the safety of drivers of vehicles drawn by horses demands such exclusion.

³ *Bertels v. Laurel Run Turnpike Co.*, 31 Pa. Co. Ct. 129.

⁴ An ordinance of a county making it unlawful to run an automobile on certain highways of the county between sunset and sunrise has been held to be valid. *In re Berry*, 147 Cal. 523, 82 Pac. 44, 109 Am. St. Rep. 160. In this case the court said: "While there are usually laws regulating and limiting the speed at which they may be driven, it is matter of common knowledge that these laws are frequently violated, and that it is exceedingly difficult for officers, even in the day time, to stop them when going at forbidden speed and arrest the drivers. And it is apparent that this would be much more difficult to do in the night time. Moreover, in the night time even those drivers of automobiles who might be considerate of the safety of others would not be able to see an approaching team in time to take the proper precautions. Considering these matters, and many others which might be suggested, we see nothing unreasonable in the regulation—and it is only a regulation—which forbids the use of automobiles on country roads in the night time."

⁵ Such an ordinance is not unreasonable as a matter of law, and the burden of proof is on those alleging its unreasonableness. *In re Berry*, 147 Cal. 523, 82 Pac. 44, 109 Am. St. Rep. 160.

sion of such vehicles from the public ways would not be unreasonable in view of the extent to which they are used in most localities.⁶

§ 38. Constitutionality of Exclusion Laws.

A law excluding motor vehicles from certain highways does not conflict, it has been held, with the constitutional guaranties of equal protection of the laws, and of enjoying life, liberty, and property.⁷ Nor is such a law objectionable upon the ground that it is special legislation in that it applies to automobiles only and not to all vehicles that use the streets.⁸

License or Registration of Vehicles and Display of Number.

§ 39. Nature of Requirements.

The laws regulating the use of motor vehicles commonly require the owners of such vehicles to register their cars or procure licenses for the privilege of operating them; and a further requirement is that the number assigned to each automobile shall be displayed thereon.⁹

⁶ In sustaining the ordinance above referred to the court said: "Of course, if the use of automobiles gradually becomes more common, there may come a time when an ordinance like the one here in question would be unreasonable. As country horses are frequently driven into cities and towns, many of them will gradually become accustomed to the sight of automobiles, and the danger of their use on country roads will grow less." In re Berry, 147 Cal. 523, 82 Pac. 44, 109 Am. St. Rep. 160.

⁷ State v. Mayo, (Me.) 75 Atl. 296 (sustaining an ordinance closing certain public streets of a town to the use of automobiles).

⁸ State v. Mayo, (Me.) 75 Atl. 297.

⁹ Consult the statutes.

§ 40. Purpose of Requirements.

The purpose of these requirements is to furnish a means of identifying the persons liable in case any wrong is done in the use of an automobile.¹ Many motor vehicles are precisely alike in appearance. They are sometimes operated by persons whose faces are partially concealed and whose identity is uncertain. The drivers who are most reckless and indifferent—and it is these who endanger the safety of others—may violate laws regulating the use of cars with impunity unless some method is adopted by which they or their vehicles may be identified. The provision for registration and numbering is such a method. It is reasonable to believe that when the drivers of cars know that the numbers displayed thereon identify them, fear of discovery and punishment will lead them to observe the requirements of law.² And it is in accordance with the purpose of this provision that when in any case it is sought to connect a person with the ownership of a vehicle, the certificate of registration, in which such person's name appears under a number corresponding with the number of the car, is competent to prove and establish by the identity of the numbers either ownership of the vehicle or an absolute right to its exclusive possession and management.³

§ 41. Validity of Requirements Generally.

Provisions of the character above referred to may be enacted by the state in the exercise of the police power for

¹ *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582; *Ingraham v. Stockamore*, 63 Misc. 114, 118 N. Y. Supp. 399.

² *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345; *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163, *affirmed* 75 N. J. L. 500, 68 Atl. 110.

³ *Trombley v. Stevens-Duryea Co.*, (Mass.) 92 N. E. 764.

the purpose of securing the public safety,⁴ and their validity has been confirmed by numerous decisions.⁵

§ 42. Constitutional Objections Generally.

Such laws are not unconstitutional either as compelling the automobile owner or operator to testify against himself,⁶ or as depriving him of property rights without due process of law.⁷ Nor does the requirement that the number shall be displayed constitute an "unreasonable search."⁸

Likewise, the statutes in question are not special laws within the constitutional prohibition for the reason that they apply only to motor vehicles and do not extend to all vehicles using the highways;⁹ but an act requiring some owners of motor vehicles to procure licenses, and exempting others from such burden, contravenes the constitutional provisions requiring the operation of statutes to be uniform and prohibiting the imposition of restrictions and burdens upon certain citizens from which others of the same class are exempt.¹

⁴ *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671; *Cleary v. Johnston*, (N. J.) 74 Atl. 538; *Com. v. Densmore*, 13 Pa. Dist. Ct. 639, 29 Pa. Co. Ct. 217.

⁵ *Com. v. Boyd*, 188 Mass. 79, 74 N. E. 255, 108 Am. St. Rep. 464; *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671; *Cleary v. Johnston*, (N. J.) 74 Atl. 538; *Stein v. Lyon*, 91 App. Div. 593, 87 N. Y. Supp. 125; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1; *Com. v. Densmore*, 13 Pa. Dist. Ct. 639, 29 Pa. Co. Ct. 217.

⁶ *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345.

⁷ *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345.

⁸ *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345.

⁹ *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671.

¹ The rule above stated applies where the statute requires only persons

§ 43. Power of Municipalities to Impose Requirements.

Municipal corporations have power to require the owners of motor vehicles to register or procure a license for the privilege of operating their vehicles³ unless the legislature has forbidden the imposition of such requirements.

Power for such purpose is derived from the authority customarily conferred upon municipalities to control and regulate the use of their streets.³ And a statute empowering a city to license "every description of carriage" is broad enough to include automobiles.⁴

thereafter acquiring motor vehicles to procure licenses. *Feasel v. State*, 18 Ohio Dec. 478.

³In *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345, it is declared that authority for the proposition that a city may require automobiles to be registered and numbered, and to display such numbers conspicuously, is furnished by the case of *Frankford, etc., Pass. R. Co. v. Philadelphia*, 58 Pa. St. 119. The ordinance in that case dealt with cars running on rails and provided "that each car run shall be numbered and have its number painted in a conspicuous place." The Pennsylvania court said: "It is obvious that its effect is that of a police regulation. It clearly furnishes a means of identifying every car which may be run in violation of those rights and public interests which the city is authorized by its charter to maintain and secure."

As to whether a municipal ordinance may be sustained as a revenue measure, see *infra*, §§ 64, 65.

³*People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345.

An ordinance requiring the owners of automobiles to register and number them and to pay license fees for the numbers furnished by the city is a valid exercise of the city's power to control and regulate the use of its streets if the speed of automobiles cannot be regulated effectually without licensing them. *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345.

⁴In *Com. v. Hawkins*, 14 Pa. Dist. Ct. 592, the statute in controversy empowered the city "to regulate and license all cars, wagons, drays, coaches, omnibuses, and every description of carriages." The court said: "While automobiles are not specifically named in the Act of Assembly, they are certainly carriages. Webster's defini-

The general automobile statutes, however, in many instances prohibit municipalities from passing ordinances requiring the licensing or registration of motor vehicles,⁵ although some acts have expressly excepted from their operation municipalities in which a license fee is imposed upon automobiles.⁶

§ 44. Application for License or Registration.

The motor vehicle laws that have been given a State-wide effect, and the local ordinances which are permitted in some States,⁷ require owners of motor vehicles to apply for registration of their vehicles or a license for the privilege of operating them. Under these acts it is not the owner of the vehicle that is licensed, but the car itself.⁸

tion of carriage is 'that which carries or conveys; a wheeled vehicle for persons.' In *Snyder v. North Lawrence*, 8 Kan. 82, the court said: 'Carriages are vehicles used for the conveyance of persons.' In *Conway v. Jefferson*, 46 N. H. 521, the Supreme Court of that state, in passing upon the right of a municipality to license vehicles, said: 'Carriages means whatever carries a load, whether on wheels or on runners.' Automobiles are wheeled vehicles used for the conveyance of persons. In view of these definitions, and of our general knowledge of such cars, they may undoubtedly be considered as carriages within the meaning of the act of 1868. That they were unknown when the act of 1868 was passed is not material."

⁵ See *Peck v. Ogilvie*, 31 Quebec Super. Ct. 227, 8 Quebec Pr. 392.

⁶ *Com. v. Hawkins*, 14 Pa. Dist. Ct. 592 (construing the Pennsylvania act of 1903).

⁷ Under some of the earlier statutes the owner of an automobile was required to procure a license for each county over whose public roads he desired to travel. *State v. Cobb*, 113 Mo. App. 156, 87 S. W. 551.

⁸ The provisions of an ordinance requiring cars to be equipped with brakes, lamps, and signals, and providing that on the rear thereof must be displayed the license number in a prominent and conspicuous place, indicate the licensing of the vehicle and not the owner. *Com. v. Hawkins*, 14 Pa. Dist. Ct. 592.

The contents of such application have been specified in many of the statutes, and these requirements are accompanied in some instances by a provision that applications shall be verified.⁰

§ 45. License or Certificate of Registration.

The statutes usually provide that upon the filing of such application and the payment of the requisite fee, a designated State officer shall assign to the applicant's motor vehicle a distinctive number, and issue and deliver to him a certificate of registration and the number plates required to be displayed upon the car.¹ The officer in whom the statute reposes the duty of issuing licenses may not delegate such duty, it has been held.²

The provision of the statute whereby it is declared that for violations thereof the license shall be revoked and shall not be reissued for a specified period is in the nature of a penalty, and it is the duty of the licensing department to enforce it.³

§ 46. Sale and Registration.

Under some acts, upon the sale or transfer of a registered motor vehicle the vendor is required by the statute to give notice thereof, with the name and residence of the vendee, to a designated State officer. The vendee, also, is required to notify such official, and pay a fee, whereupon the change of ownership is noted in the records kept by

⁰ Examine the statutes.

¹ See the statutes.

² Consequently the state officer appointed to issue licenses has no authority to issue them in blank to automobile clubs and associations, which desire to pay for and issue them to individuals from time to time. *Automobile Licenses*, 35 Pa. Co. Ct. 512.

³ *Bergdoll's case*, 36 Pa. Co. Ct. 12.

him. Upon the sale of a motor vehicle by a manufacturer or dealer the vendee is allowed by the statute to operate the same upon the public highways for a period of fifteen days after taking possession thereof or until he shall have received his certificate of registration and number plates from the designated State officer. During such period, however, the vehicle must have attached thereto a placard bearing the registration number of the dealer under which it might previously have been operated. And the application for registration must have been made by mail or otherwise before the vehicle may be so used.⁴

§ 47. Renewal of Registration.

Registration must be renewed annually under some acts.⁵

§ 48. Registration Fees.

The statutes require the payment of a license or registration fee, which in some cases varies according to the size or horse power of the vehicle.⁶ This fee is to be regarded as a fee incident to the process of regulation and not as a tax for raising revenue;⁷ and the law is not objectionable

⁴ See for example N. Y. Laws 1910, c. 374.

⁵ Consult the statutes.

⁶ See the statutory provisions.

⁷ *Com. v. Boyd*, 188 Mass. 79, 74 N. E. 255, 108 Am. St. Rep. 464; *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345; *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163; *Buffalo v. Lewis*, 192 N. Y. 193, 84 N. E. 809, *affirming* 123 App. Div. 163, 108 N. Y. Supp. 450.

Provisions requiring registration are legitimate exercises of the police power of the state, notwithstanding a clause in the statute which requires all fees arising under the act to be paid to the treasurer of the state, and to be apportioned by the state road commissioners for the repair of improved roads. *Cleary v. Johnston*, (N. J.) 74 Atl. 538.

on the ground that the fee is for the latter purpose,⁸ and consequently imposes upon automobile owners a double burden of taxation in violation of the Constitution.⁹

§ 49. Application of Laws to Particular Vehicles.

The statutes require all motor vehicles as defined therein to be licensed or registered.¹ The requirement has been held to extend to motorcycles or motor bicycles. A motorcycle is a motor vehicle, it has been held, within the meaning of a statute which requires motor vehicles to display registration seals and numbers, and defines the term "motor vehicles" to mean all vehicles propelled by power other than muscular power, except traction engines and such motor vehicles as run only upon rails or tracks.² And it has been held that a motor bicycle, the motive power of which is an engine working by means of gasoline under the control of the rider, is a "carriage" within the meaning of an act requiring a license for the keeping of a carriage drawn or propelled upon a road or tramway, or elsewhere than upon a railway, by steam, electricity, or any other mechanical power.³

Traction engines are within the requirement of the statutes in this particular; and this is true although they do not answer the description of the vehicles mentioned in the statute. It has been said that "there certainly are as forcible reasons for requiring the registration of a traction

⁸ *People v. Schneider*, 139 Mich. 673, 103 N. W. 172, 5 Ann. Cas. 790, 69 L.R.A. 345.

⁹ *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163.

¹ See the statutory definitions set forth, *supra*, § 2, and consult the statutes.

² *People v. Smith*, 156 Mich. 173, 120 N. W. 581, 16 Ann. Cas. 607, 21 L.R.A.(N.S.) 41 (construing Mich. Pub. Acts, 1905, Act No. 196).

³ *O'Donoghue v. Moon*, 90 L. T. N. S. (Eng.) 843.

engine not confined to rails, and the licensing of its operation, as for requiring these acts in respect to an ordinary automobile." ⁴

§ 50. Application of Laws to Corporations or Partnerships.

A corporation or partnership owning an automobile should register it in the corporate or firm name.⁵

§ 51. Application of Laws to Manufacturers and Dealers.

The statutes frequently exempt manufacturers and dealers wholly or partially from the necessity of compliance with the requirements as to license and registration.⁶ This provision refers only to such vehicles as are held in stock for the purpose of sale,⁷ and so construed it is not invalid.⁸

⁴ *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582 (construing N. H. Laws 1905, c. 86, § 1). See also *Hoddell v. Parker*, [1910] 2 K. B. 323, 103 L. T. N. S. 42, 79 L. J. K. B. 759, 74 J. P. 315, 8 Local Gov. Rep. 690; *London County Council v. Wood*, [1907] 2 Q. B. (Eng.) 482 (holding that a steam roller passing over the highway upon a single occasion comes within the requirement as to license).

⁵ *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁶ Examine the statutes.

⁷ *Com. v. Pfeiffer*, 35 Pa. Co. Ct. 478.

⁸ A statute (N. Y. Laws 1903, c. 625) which requires the registration of automobiles by their owners, but exempts from registration automobiles in the possession of manufacturers and dealers except those kept for hire or for their own private use, and which further provides that no person shall operate or run an automobile in a street or other public place unless it has affixed thereto the number furnished by the secretary of state upon the registration of the machine, is not invalid as class legislation, as, when the provisions of the statute are construed together, they do not permit a manufacturer or dealer to operate an automobile in a public place for any purpose without first procuring a number by registering the machine with the secretary of state, inasmuch as operation for exhibition to a prospective purchaser is operation for the operator's private use. *People v. MacWilliams*, 91 App. Div. 176, 86 N. Y. Supp. 357.

The statute is not unconstitutional because it contains a provision that it shall not apply "to any of the motor vehicles which any manufacturer or vender may have in stock for sale and not for his private use or hire." The main object of the act is to fix means by which automobiles used upon the highways can be identified and the owners thereof known. Consequently there is no necessity for registering or licensing cars while kept in stock for sale.⁹ If, however, the intention were to exempt automobile manufacturers and venders as a class from obedience to its requirements, it would be unconstitutional and inoperative because of the discrimination against other persons owning and operating motor cars.¹

§ 52. Application of Laws to Nonresidents.

Under many of the statutes nonresidents of the State are required to comply with the requirements as to license or registration, although the later enactments disclose a more liberal policy in this respect, especially toward residents of foreign States by the laws of which nonresidents are not obligated to comply with the requirements in question.²

In computing the period during which a nonresident is permitted to operate his vehicle in the State without procuring a license, days on which he made temporary calls into adjoining States are to be included, as likewise are days when his car was laid up for repairs or when for any other reason he did not operate it.³

⁹ *Com. v. Densmore*, 13 Pa. Dist. Ct. 639, 29 Pa. Co. Ct. 217.

¹ *Com. v. Pfeiffer*, 35 Pa. Co. Ct. 478; *In re Automobile Acts*, 15 Pa. Dist. Ct. 83; *Com. v. Templeton*, 16 Pa. Dist. Ct. 793, 33 Pa. Co. Ct. 415.

² Consult the statutes.

³ *Dudley v. Northampton St. R. Co.*, 202 Mass. 443, 89 N. E. 25, 23 L.R.A.(N.S.) 561.

§ 53. Number Tags, Plates, or Shields.

The statutes uniformly provide that no person shall operate or drive a motor vehicle on the public highways unless plates or tags bearing the license or registration number are conspicuously displayed, one on the front and one on the rear of such vehicle.⁴

No vehicle is permitted to display the number plates of more than one State at any time, under some acts.⁵ And the statutes in some jurisdictions, it seems, require all tags bearing license numbers, with the exception of those furnished thereunder, to be removed from motor vehicles while the same are being operated within the limits of the State.⁶

In the case of the loss of number tags required to be displayed upon motor vehicles, or of the badge that must be worn by the licensee, new tags or a new badge may be obtained by the owner under most statutes.⁷

Taxation of Motor Vehicles.

§ 54. Power of Municipal Corporations to Impose Tax.

Although the general automobile statute prohibits local authorities from requiring motorists to obtain licenses for the privilege of operating their cars, a municipal ordinance which requires owners of automobiles to pay a sum of money annually as a condition to the operation of their vehicles on the streets of the municipality is valid if it can

⁴ Examine the statutes.

⁵ For example N. Y. Laws 1910, c. 374.

⁶ In re Automobile Acts, 15 Pa. Dist. Ct. 83.

⁷ Consult the statutes.

The Pennsylvania Act of 1910 (Pub. L. 1909, no. 174, p. 265) has been construed to require the new tags or badge to be of another number. *Automobiles*, 18 Pa. Dist. Ct. 451.

be construed to be a revenue measure.⁸ If, however, the ordinance is not capable of such construction it cannot be sustained.⁹

§ 55. Constitutionality of Tax Laws.

Motor vehicles may be classified, for the purposes of taxation, according to their carrying capacity without contravention of the constitutional provision requiring

⁸ *Ayers v. Chicago*, 239 Ill. 237, 247, 87 N. E. 1073, holding that a municipal ordinance requiring the owners of automobiles to pay an annual license tax is not in conflict with a state statute providing that "no owner of a motor vehicle who shall have obtained a certificate from the secretary of state as hereinbefore provided shall be required to obtain any other license or permit to use or operate the same, nor shall such owner be required to display upon his motor vehicle any other number than the number of the registration seal issued by the secretary of state." The court said: "Construing the motor vehicle law as a regulatory statute passed under the police power of the state, and the ordinance as a revenue measure passed under the taxing power of the municipalities, the ordinance does not conflict with the motor vehicle statute."

⁹ In *Buffalo v. Lewis*, 192 N. Y. 193, 84 N. ed. 809, *affirming* 123 App. Div. 163, 108 N. Y. Supp. 450, it appeared that the charter of a city authorized the common council thereof to enact ordinances imposing a tax upon the owners of automobiles for the privilege of operating the same upon the public streets of the city. Subsequently the legislature enacted a statute providing that it should be controlling in the use of the public highways; that local authorities should have no power to pass, enforce, or maintain any ordinance, rule, or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways; and that all acts or parts of acts, so far as they were inconsistent with or contrary to the statute, were repealed. It was held that the charter provisions of the city were repealed by the statute, and that an ordinance imposing a tax upon the owners of automobiles operated within the city, enacted pursuant to the charter provisions and after the enactment of the statute, was void. It was further held that a direction in the ordinance, that all sums received under the ordinance should be placed to the credit of a fund for the repair of the paved and other streets of the city, did not render the ordinance an act for the

uniformity in the application of laws. Where it was contended that an ordinance was unconstitutional and void because it unjustly discriminated between persons coming within the same class, in that it levied a tax upon automobiles with seats for two persons and another tax upon automobiles with seats for more than two persons, and did not levy any tax upon automobiles with a seat for only one person, the court said: "If it be conceded that there were automobiles with a seat for one person, motorcycles, tricycles, and bicycles in use in the city of Chicago at the time the ordinance in question was passed, we are not prepared to hold the ordinance void because it failed to provide a tax for such vehicles. There may have been reasons, known to the city council, in regard to the character and use of the excluded vehicles for exempting them from the operation of such ordinance. The presumption must be indulged that the ordinance is valid and that there has been no arbitrary discrimination in the selection of the objects of taxation under it."¹

License of Drivers.

§ 56. Requirements Generally.

The statutes generally require that every chauffeur or every operator of a motor vehicle shall procure from a designated official a license for the privilege of driving a car upon the streets and highways.

purpose of providing revenue for the maintenance of the municipality rather than an act imposing a license for the privilege of operating automobiles in the streets of the city.

¹ *Ayers v. Chicago*, 239 Ill. 237, 248, 87 N. E. 1073.

The fact that motor vehicles and street cars are excluded from a scheme of taxation of vehicles generally does not render the legislation invalid. *Kersey v. Terre Haute*, 161 Ind. 471, 475, 68 N. E. 1027.

Before a license is granted under many acts the applicant therefor must pass an examination respecting his qualifications as a driver. And the license must be renewed annually.³

§ 57. Purpose of Requirements.

The object of the license is to supply a means of identifying the person who is driving the car,³ and to furnish a guaranty, in addition to registration, that proper use of the vehicle will be made, and that it will be operated in compliance with the law.⁴

§ 58. Validity of Laws.

Laws requiring drivers of motor vehicles to be licensed are valid,⁵ as being a legitimate exercise of the police power for the purpose of securing the safety of the public in its use of highways, against the danger of vehicles which require careful and skilful drivers.⁶ And the requirement is not unconstitutional although it is to be regarded as

³ Consult the statutes.

³ *Martin v. White*, (1910) 1 K. B. (Eng.) 665.

⁴ *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁵ *Cleary v. Johnston*, (N. J.) 74 Atl. 538; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

⁶ *Unwen v. State*, 73 N. J. L. 529, 64 Atl. 163; *Cleary v. Johnston*, (N. J.) 74 Atl. 538.

A statute requiring the owner of an automobile to file in the office of the secretary of state a duly verified declaration, setting forth that he is competent to drive an automobile, and a written statement containing his name, address, a description of the character of the automobile, the name of the maker, the manufacturer's number, and the horse-power of the machine, and requiring further the payment to the secretary of state of a registry fee of one dollar, is a valid exercise of the police power, and is not violative of state or federal constitutional provisions. *State v. Unwen*, 73 N. J. L. 529, 64 Atl. 163, *affirmed* 75 N. J. L. 500, 68 Atl. 110.

an intentional legislative imposition of a tax for revenue.⁷ But a law which purports to impose license requirements only on owners of automobiles who use their cars for private business and pleasure is invalid for lack of uniformity in its operation.⁸

§ 59. Application of Laws to Particular Persons.

Persons under a specified age are not entitled to licenses under many acts. And nonresident chauffeurs are excepted from the operation of some of the statutes in this particular.⁹ A partnership or corporation owning a motor vehicle should register it in the firm or corporate name, but the license required must be issued to the person who acts as operator.¹

§ 60. Numbers, Marks, and Badges.

The statutes provide for the furnishing of a badge bearing the distinguishing number or mark assigned to the licensee, and require that this must be worn by the licensee when operating a motor vehicle upon the public highway. As a rule the transfer of badges is prohibited.²

In the event of loss of a license or badge the licensee, under some statutes, may obtain from the secretary of state a duplicate thereof upon filing an affidavit showing the fact of loss and paying a fee.³ One statute, however, has been construed to require the issuance of a new badge of another number.⁴

⁷ Cleary v. Johnston, (N. J.) 74 Atl. 538.

⁸ Chicago v. Banker, 112 Ill. App. 94.

⁹ Examine the statutes.

¹ Emerson Troy Granite Co. v. Pearson, 74 N. H. 22, 64 Atl. 582.

² Consult the statutes.

³ See for example N. Y. Laws 1910, c. 374.

⁴ Automobiles, 18 Pa. Dist. Ct. 451 (construing Pa. Pub. L. 1909, No. 174, p. 265).

CHAPTER V.

REGULATION OF USE OF MOTOR VEHICLES (continued).

Other Provisions.

- § 61. Designation of Agent to Receive Process.
- 62. Age of Operator.
- 63. Construction and Equipment Generally.
- 64. Power of Municipal Corporations to Impose Requirements.
- 65. Persons Liable for Failure to Comply with Requirements.
- 66. Brakes.
- 67. Signaling Device.
- 68. Lights.
- 69. Smoke or Vapor.
- 70. Noise.
- 71. Using Car without Permission.
- 72. Law of the Road Generally.
- 73. Traffic Regulations in Populous Localities.
- 74. Necessity for Limitation of Speed.
- 75. Power of Legislature to Limit Speed.
- 76. Power of Municipal Corporations to Limit Speed.
- 77. Power of Park Boards to Limit Speed.
- 78. Validity of Speed Laws Generally.
- 79. Definiteness and Certainty of Speed Laws.
- 80. Reasonableness of Rate Fixed by Laws.
- 81. Construction of Speed Laws.
- 82. Effect of Motor Vehicle Speed Laws upon General Speed Laws.
- 83. Stopping on Signal or Appearance of Danger Generally.
- 84. Obligation Imposed by Requirement to Stop.
- 85. Necessity for Forward Movement of Vehicle.
- 86. Stopping in Case of Accident.
- 87. Rates of Toll.
- 88. Transportation of Motor Vehicles upon Vessels.
- 89. Vehicles for Hire.
- 90. Further Subjects of Regulation.

*Other Provisions.***§ 61. Designation of Agent to Receive Process.**

A statutory provision requiring each nonresident owner of a motor vehicle to designate an agent in the State upon whom process may be served in any action against the owner growing out of the operation of his registered machine in the State is not unconstitutional.¹

§ 62. Age of Operator.

The statutes provide that no person who is under a specified age shall operate or drive a motor vehicle, unless, as declared in some acts, such person is accompanied by a duly licensed chauffeur or the owner of the motor vehicle being operated.²

§ 63. Construction and Equipment Generally.

The statutes usually require every motor vehicle operated upon the streets and highways to be equipped with certain appliances, including brakes, horn, lights, etc.³

§ 64. Power of Municipal Corporations to Impose Requirements.

Power on the part of municipalities to enact ordinances requiring the use of a signaling device, brake, and lamps on every automobile is derived from the general authority of such corporations to regulate the use of their streets and the speed of vehicles within the corporation.⁴

¹ Cleary v. Johnston, (N. J.) 74 Atl. 538.

² See for example N. Y. Laws 1910, c. 374.

³ See the statutory provisions.

⁴ Chicago v. Banker, 112 Ill. App. 94.

§ 65. Persons Liable for Failure to Comply with Requirements.

Where the statute requires that automobiles "while in use shall be provided" with such appliances, the user of the vehicle is, by implication the person who is liable to the penalty for failure to comply with the requirement.⁵ And a failure of the statute to designate the person who shall be liable does not render it void for uncertainty.⁶

§ 66. Brakes.

Every motor vehicle, operated or driven upon the public highways, is required by statute to be provided with adequate brakes in good working order and sufficient to control such vehicle at all times when the same is in use.⁷ The construction of a motor car in such a manner that the engine may be used as a brake is not a compliance with the statute. And this is true, it has been held, although the use of the engine as a brake locks the wheels as effectually as does the brake usually used.⁸

⁵ *State v. Myette*, 30 R. I. 556, 76 Atl. 664, (prosecution for operation of automobile without lights). The court said in this case: "In the statute under consideration mandatory words are used concerning the appliances required upon motor vehicles while in use. 'Every motor vehicle while in use shall be provided' with certain appliances. As motor vehicles cannot equip themselves automatically, human agency is presumed. The mandate set forth in the statute is equivalent to the statement that no motor vehicle shall be used without the required appliances, nor unless the prescribed lights are properly displayed."

⁶ *State v. Myette*, 30 R. I. 556, 76 Atl. 664.

⁷ See for example N. Y. Laws 1910, c. 374.

⁸ Under a statute requiring motor cars to be equipped with "two independent brakes," it appeared that a car had a hand brake on the back wheels, and that when the engine was "cut off" the wheels were locked as effectually as they could have been by an independent

§ 67. Signaling Device.

The provision of the statute requiring every automobile to be provided with a suitable bell, horn, or other device for signaling, is necessary to preserve the rights of the public on the highways, and hence is a valid enactment.⁹

§ 68. Lights.

The statutory provision requiring lights to be displayed and prescribing the number and position thereof is likewise a necessary and valid requirement.¹

The rear light upon a motor car is a very important light, because it is the one means whereby, if an accident happens, and the car does not stop, it may be identified.²

§ 69. Smoke or Vapor.

Statutes and ordinances in some instances have been directed against the use of motor vehicles which, by reason of their construction or mode of operation, discharge smoke or vapor.³ A statute which prohibits the use of vehicles not constructed on the principle of consuming their own smoke, or not consuming, so far as practicable, their own smoke, contemplates only the case of engines producing smoke in the process of combustion of the fuel used in propelling the vehicle, and does not apply to the case of a motor car propelled by an internal combustion engine which is

brake. The court held that the statute was not complied with. *Wilmott v. Southwell*, 99 L. T. N. S. (Eng.) 839, 72 J. P. 491, 25 Times L. Rep. 22, 7 Local Gov. Rep. 8.

⁹ *Gifford v. Jennings*, 190 Mass. 54, 76 N. E. 233; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

¹ See *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

² *Provincial Motor Cab Co. v. Dunning*, [1909] 2 K. B. (Eng.) 599, 78 L. J. K. B. 822, 101 L. T. N. S. 231, 73 J. P. 387, 7 Local Gov. Rep. 765, 25 Times L. Rep. 646.

³ Examine the statutes and local ordinances.

structurally smokeless, and which emits smoke only by reason of the negligence of the driver in supplying an excessive quantity of lubricating oil to the machinery.⁴

§ 70. Noise.

Under some statutes motor cars propelled by internal combustion engines are required to be equipped with a muffling device.⁵

§ 71. Using Car without Permission.

Statutes directed against the unauthorized use of automobiles by persons who are employed to operate them or by others have been enacted in many instances.⁶

§ 72. Law of the Road Generally.

The general automobile statutes frequently embrace a statement of rules governing the conduct of motorists when meeting and passing other persons and vehicles upon the highway.⁷ Acts incorporating to a large extent the common-law rules respecting the "law of the road" are to be interpreted in accordance with the principles of the common law.⁸

§ 73. Traffic Regulations in Populous Localities.

Traffic regulations have been enacted in many populous localities, and where their validity has been challenged they have been upheld.⁹ It has been held that the "right of

⁴ *Star Omnibus Co. v. Tagg*, 21 Cox C. C. (Eng.) 519, 97 L. T. N. S. 481, 71 J. P. 352, 5 Local Gov. Rep. 808, 23 Times L. Rep. 488.

⁵ Consult the statutes.

⁶ See for example N. Y. Laws 1910, c. 621 § 129a.

⁷ See the statutes.

⁸ *McDonald v. Yoder*, 80 Kan. 25, 101 Pac. 468.

⁹ *State v. Bussian*, 111 Minn. 488, 127 N. W. 495, holding that the title to Laws 1909, c. 259, conforms to constitutional requirements.

passage" of motor vehicles is not specially restricted because the owners or operators thereof are required to conform to local traffic regulations made applicable to all kinds of vehicles.¹ And the police power of a municipal corporation has been held to authorize the enactment of an ordinance requiring that "every person using any vehicle on any street . . . shall drive . . . his vehicle at the right of the centre of the street, and when turning to the left to enter an intersecting street, he shall not turn to the left until his vehicle shall have passed beyond the centre of such intersecting street."²

Likewise, an ordinance giving vehicles moving in certain directions the right of way at crossings is valid,³ and is not repealed by a subsequent ordinance requiring motor cars to keep to the right.⁴

§ 74. Necessity for Limitation of Speed.

Motor vehicles as a rule are capable of being driven at great speed,⁵ and the experience of the public in being obliged to submit to danger from the immoderate speed of

¹ Ex p. Snowden, 12 Cal. App. 521, 107 Pac. 724, 726.

² State v. Larrabee, 104 Minn. 37, 115 N. W. 948.

³ McCarragher v. Proal, 114 App. Div. 470, 100 N. Y. S. 208, so holding in respect of an ordinance giving to vehicles moving north and south the right of way at intersecting streets over vehicles moving east and west.

⁴ An ordinance requiring vehicles going south to keep on the westerly side of the centre of a street, and going north, on the easterly side, is not impliedly repealed by an ordinance to regulate the use and speed of automobiles which requires that they keep to the right on meeting vehicles, and contains no repealing clauses. There is no express conflict under such circumstances, and implied repeals are not favored. Suell v. Jones, 49 Wash. 582, 96 Pac. 4.

⁵ McFern v. Gardner, 121 Mo. App. 1, 10, 97 S. W. 972; Hall v. Compton, 130 Mo. App. 675, 108 S. W. 1122; Emerson Troy Granite Co. v. Pearson, 74 N. H. 22, 64 Atl. 582.

these vehicles, or to abandon the highways to their use, has made enactments to restrain their speed a necessity.⁶

§ 75. Power of Legislature to Limit Speed.

The legislature in the exercise of the police power for the promotion of the safety of the public in the use of the highways may prescribe a reasonable maximum rate of speed at which automobiles may be driven.⁷

§ 76. Power of Municipal Corporations to Limit Speed.

Municipal corporations, also, may regulate the speed of motor vehicles⁸ in the interest of public safety,⁹ even though such power is not expressly conferred upon them by the legislature.¹ It has been said that it is the universally acknowledged right and province of each municipality to regulate the rates of speed of travel upon its own streets.² And it has been held that a grant of general powers over highways, together with authority to take all needful means for securing the public safety, empowers municipal corporations to fix the maximum speed of motor vehicles.³

While, under some of the general motor vehicle statutes, municipalities have no power to fix a maximum speed limit within their boundaries less than that specified by the acts

⁶ Radnor Tp. v. Bell, 27 Pa. Super. Ct. 1.

⁷ Fletcher v. Dixon, 107 Md. 420, 68 Atl. 875; Com. v. Kingsbury, 199 Mass. 542, 544, 85 N. E. 848, 127 Am. St. Rep. 513; State v. Swagerty, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A. (N. S.) 601, 120 Am. St. Rep. 671; Radnor Tp. v. Bell, 27 Pa. Super. Ct. 1.

⁸ Chicago v. Banker, 112 Ill. App. 94; Christensen v. Tate, (Neb.) 128 N. W. 622.

⁹ Eichman v. Buchheit, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435.

¹ Chicago v. Banker, 112 Ill. App. 94.

² Ex p. Snowden, 12 Cal. App. 521, 107 Pac. 724, 726.

³ Radnor Tp. v. Bell, 29 Pa. Co. Ct. 444, *affirmed* 27 Pa. Super. Ct. 1.

themselves,⁴ the mere fact that the State has made certain regulations in this respect does not prohibit a municipality from exacting additional requirements.⁵ So long as there is no conflict between the two, both may stand. Thus it has been held that a municipal ordinance prohibiting motor vehicles from traveling on any of the streets of the city at a greater rate than thirty miles per hour, under penalty of imprisonment in all cases, is not in conflict with a State statute forbidding driving at a greater rate than fifteen miles per hour under penalty of fine or imprisonment or both; the court saying that the effect of the section of the ordinance "is only to impose a punishment for a more flagrant violation of the rights of the public than the legislature has seen fit to punish. This section does not attempt to legalize that which the State has declared unlawful, nor has it violated the rule that municipalities may not by ordinance prescribe a different penalty for the same offense."⁶

§ 77. Power of Park Boards to Limit Speed.

Commissioners of parks, when clothed with authority to govern and regulate the parks within their jurisdiction, may fix a reasonable maximum speed limit at which

⁴ *People v. Ellis*, 88 App. Div. 471, 85 N. Y. S. 120; *In re Automobile Acts*, 15 Pa. Dist. Ct. 83; *Peck v. Ogilvie*, 31 Quebec Super. Ct. 227, 8 Quebec Pr. 392.

⁵ *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 724; *Christensen v. Tate*, (Neb.) 128 N. W. 622.

Under a statute providing that the speed of automobiles shall not exceed twelve miles per hour in thickly settled or business portions of the city, and declaring that no greater speed shall be attained than is reasonable and proper, having regard to the traffic, etc., a city may limit the speed of automobiles within its limits to six miles per hour. *Bellingham v. Cissna*, 44 Wash. 397, 87 Pac. 481.

⁶ *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 725.

automobiles shall be operated.⁷ Under a statute giving a board of park commissioners power to take land for parks and lay out, improve, govern, and regulate the same, and "to make rules for the use and government thereof, and for breaches for such rules to affix penalties," such a board has power to regulate the speed at which a person shall "ride or drive" in a park, or in a street which is within the jurisdiction of the board; and such power is not taken away by subsequent legislation regulating the speed of motor vehicles throughout the State, as such legislation refers to the speed of motor vehicles on public highways and streets generally.⁸

§ 78. Validity of Speed Laws Generally.

Laws fixing a rate of speed as the maximum at which it shall be lawful for motor vehicles to be operated have been upheld in a number of instances. Such a law is not invalid because it does not apply to other vehicles.⁹ Accordingly, a municipal ordinance is not invalid because the speed limitations are made inapplicable to the vehicles operated by the fire and police departments of the city.¹ And likewise, a municipal ordinance limiting the speed of automobiles to seven miles an hour has been held not to discriminate against automobiles by reason of the fact that another ordinance allows street cars to run at a greater rate of speed than seven miles an hour.² And a contention

⁷ *Com. v. Tyler*, 199 Mass. 490, 85 N. E. 569. See also *Musgrave v. Kennison*, 20 Cox C. C. (Eng.) 874, 92 L. T. N. S. 865, 69 J. P. 341, 3 Local Gov. Rep. 932, 21 Times L. Rep. 600.

⁸ *Com. v. Crowninshield*, 187 Mass. 221, 72 N. E. 963, 68 L.R.A. 245.

⁹ *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671.

¹ *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 724, 726.

² *Chittenden v. Columbus*, 26 Ohio Cir. Ct. Rep. 531.

that the speed limit fixed by an ordinance discriminates against the operators of motor vehicles, by reason of the fact that it is so high that only motor vehicles can make the speed necessary to violate the provision, is unsound.³

An ordinance is not invalidated by the fact that different rates of speed are allowed in different portions of the prescribed territory, as it is within the province of the city council to prescribe different rates of speed in different portions of the city according to width of the streets, their use, and the density of the population.⁴ And an ordinance providing imprisonment of not less than ten nor more than fifty days as the punishment for exceeding the rate of thirty miles per hour has been held to be not unreasonable nor out of harmony with a state law fixing a maximum penalty of one hundred dollars and imprisonment for thirty days for violation of a speed limit of twenty miles per hour.⁵

³ Ex p. Snowden, 12 Cal. App. 521, 107 Pac. 724, 726.

⁴ Chittenden v. Columbus, 26 Ohio Cir. Ct. Rep. 531.

⁵ Ex p. Snowden, 12 Cal. App. 521, 107 Pac. 726; In arriving at this decision the court said: "The reasonableness of a regulation such as we are here considering depends upon its purpose and the conditions requiring it to be made. It is intended to prohibit, not to punish. The offense created by its violation is *malum prohibitum*, and not *malum in se*, and the penalty must in such cases rest largely in the sound discretion of the legislative branch of the government, and be such as is necessary to prevent the act which is prohibited. It being deterrent and not punitive in character, there is no element of compensation for a breach to be considered. It is apparent, from the fact that [the section in controversy] was added after the penalties of fine or imprisonment had been on trial some time, that these provisions had proven ineffective. Not because of the mildness of the penalties before provided, as the terms of imprisonment were equally severe with those contained in [this section], but because, we must assume, the alternative of fine had been imposed by the courts instead of the imprisonment. The ordinance had failed to deter the rapid operator from violating the law, and as a remedy for this the legislative branch withdrew from the courts,

§ 79. Definiteness and Certainty of Speed Laws.

Also, speed laws have been upheld in a number of instances against the objection that they were indefinite and uncertain. A provision that automobiles shall not be operated at a speed in excess of a specified number of miles per hour is not rendered indefinite and uncertain by the further provision that no one shall drive an automobile at a greater speed than is reasonable and proper, having regard to the traffic and use of the highway.⁶ And it has been held that the difficulty in ascertaining whether a portion of a city is a business district within the meaning of a statute fixing the speed of automobiles in the "business portion" of cities does not render it so uncertain and indefinite as to make it unreasonable or violative of constitutional provisions requiring due process of law.⁷ Similarly, a city ordinance limiting the speed at which automobiles may be run in certain portions of the city is not rendered invalid for uncertainty, it has been held, by the fact that it makes no provision for the erection of signs at the points where the areas of limited speed begin.⁸ And it has been held that a rule of park commissioners, making it unlawful for any person to "ride or drive" in a certain avenue at more than a fixed rate of speed is not too indefinite to support criminal proceedings against a motorist, inasmuch as a person may be said to be driving an automobile if he is controlling the motive power.⁹

in aggravated cases, the power to impose a fine. We find no point at which the reasonableness of the exercise of this discretion is open to attack."

⁶ *Byrd v. State*, (Tex.) 129 S. W. 620.

⁷ *People v. Dow*, 155 Mich. 115, 118 N. W. 745.

⁸ *Eichman v. Buchheit*, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435.

⁹ *Com. v. Crowninshield*, 187 Mass. 221, 72 N. E. 963, 68 L.R.A. 245.

§ 80. Reasonableness of Rate Fixed by Laws.

A board of commissioners, having authority to regulate the operation of motor cars in parks, may limit the speed of such vehicles to ten miles per hour.¹ And an ordinance limiting the speed of such vehicles to ten miles an hour in a township is not unreasonable, it seems, when a lower rate of speed is prohibited by the legislature in less densely settled communities.² Similarly a law fixing the maximum rate of speed at nine miles per hour has been upheld.³ Likewise a regulation of the park commissioners of a city prohibiting any person from riding or driving in a certain avenue at a speed in excess of eight miles an hour has been held to be a reasonable regulation.⁴ And it cannot be said, as a matter of law, that a city ordinance limiting the speed of motor vehicles to six miles per hour on city streets between crossings, and to four miles per hour at crossings, is unreasonable.⁵

§ 81. Construction of Speed Laws.

Statutes limiting the speed at which motor vehicles may be driven upon public highways, and prescribing penalties for exceeding the speed fixed, apply to all ways used by public right for public travel. Accordingly it has been held that turnpike roads are included by the words "public highways" as used in the statute, the court saying: "The manifest purpose of the law was to protect travelers upon

¹ *Musgrave v. Kennison*, 20 Cox C. C. (Eng.) 874, 92 L. T. N. S. 865, 3 Local Gov. Rep. 932, 69 J. P. 341, 21 Times L. Rep. 600.

² *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

³ *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671.

⁴ *Com. v. Crowninshield*, 187 Mass. 221, 72 N. E. 963, 68 L.R.A. 245.

⁵ *Eichman v. Buchheit*, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435.

public ways from being subjected to the peril created by unduly speeding automobiles thereon. It is just as important to afford such protection on toll roads as on ordinary public highways. There is no difference whatever.”⁶

The term “crossings” in an ordinance refers to street crossings,⁷ and the words “business portion” of cities and villages refer not only to the central business area of a city but to all business districts thereof, where there are more than one.⁸ And where the language of the provisions of the statute requiring automobiles to slacken speed when approaching an intersecting highway is imperative and without exception, it will be construed to apply in respect of persons upon the same highway as the approaching automobile as well as of those who may be upon the intersecting way.⁹

In fixing the maximum rate at a specified number of miles an hour, the statute does not purport to establish a rate of speed which is lawful under all circumstances.¹ And a statute prohibiting municipal corporations from requiring motor vehicles to travel at a slower rate than a specified number of miles per hour does not purport to fix the speed at which such vehicles may be operated, but merely prohibits the local authorities from fixing a lower rate.² And where the statute provides that no person shall drive an automobile at a greater average speed than twenty

⁶ *Weirich v. State*, 140 Wis. 98, 121 N. W. 652, 17 Ann. Cas. 802, 22 L.R.A.(N.S.) 1221.

⁷ In a city ordinance limiting the speed of automobiles on the “streets” of the city and at “crossings” the word “crossings” refers to street crossings. *Eichman v. Buchheit*, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435.

⁸ *People v. Dow*, 155 Mich. 115, 118 N. W. 745.

⁹ *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 279.

¹ *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572.

² *People v. Ellis*, 88 App. Div. 471, 85 N. Y. S. 120.

miles per hour, this does not prohibit the driving of an automobile at a greater speed than twenty miles per hour.³

§ 82. Effect of Motor Vehicle Speed Laws upon General Speed Laws.

Statutes limiting the speed of motor vehicles which are complete in themselves repeal, so far as motor vehicles are concerned, existing laws relating to the speed of vehicles generally.⁴

§ 83. Stopping on Signal or Appearance of Danger Generally.

Many, if not all, of the statutes regulative of the use of motor vehicles, provide that drivers shall bring their cars to a stop upon being signaled to by persons driving horses, or upon perceiving that a horse is frightened.⁵

The legislative purpose in enacting these laws was to provide protection to travelers on the public highway by vehicle from the dangers incident to the fright of an animal, attached to such vehicle, at the approach of a motor vehicle.⁶ It has been said: "The act in question was designed to secure the safety of travelers upon the public highway. It is a matter of common knowledge that an automobile is likely to frighten horses. It is propelled by a power within itself, is of unusual shape and form, is capable of a high rate of speed, and produces a puffing noise when in motion. All this makes such a horseless vehicle a source of danger to persons traveling upon the highway in vehicles drawn by horses."⁷

³ *Neidy v. Littlejohn*, (Ia.) 125 N. W. 198.

⁴ *Rockingham County v. Chase*, 75 N. H. 127, 71 Atl. 634.

⁵ See the statutes.

⁶ *State v. Goodwin*, 169 Ind. 267, 82 N. E. 459.

⁷ *Christy v. Elliott*, 216 Ill. 40, 74 N. E. 1035, 2 Ann. Cas. 487,

The statute, as construed, applies to motor vehicles of every sort; it is not limited to those of any particular character.⁸

§ 84. Obligation Imposed by Requirement to Stop.

The requirement that a motor vehicle shall be brought to a stop "whenever it shall appear that any horse driven or ridden by any person . . . is about to become frightened," makes it the duty of an automobile driver to stop his car whenever it may appear to him, by the exercise of reasonable diligence upon his part, that a horse is about to become frightened.⁹ The duty imposed by this statute upon the driver of an automobile to stop when it appears that an approaching horse has become frightened is as imperative as when it appears that a horse is about to become frightened.¹

1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196, *approved* by State v. Swagerty, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671.

⁸ *Statute not Limited to Steam Cars.*—Under a statute providing that at the indication of a horse becoming alarmed the person in charge of a motor vehicle "shall go as far as practicable to the side of the road and remain stationary until the said horse or horses or other animals have passed a safe distance, in the meantime making as little noise as possible with the steam," a person in charge of an automobile is required to go to the side of the road only "as far as practicable" under the circumstances; and the words "with the steam" are not intended to limit the provision to what are ordinarily called steam automobiles. *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 875.

⁹ *Christy v. Elliott*, 216 Ill. 31, 74 N. E. 1035, 3 Ann. Cas. 487, 1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196.

¹ *Ward v. Meredith*, 122 Ill. App. 159, 163, *affirmed* 220 Ill. 66, 77 N. E. 118. In this case it was contended that the requirement of the statute in question applies only to cases where a horse is about to become frightened, and not to cases where the horse has actually become frightened. The court said: "We cannot agree to this construction

The statute requires the driver of a motor vehicle to stop upon receiving the designated signal,² whether given by the person driving the frightened horse or by another occupant of the vehicle drawn by the animal.³ But he is not bound absolutely to stop the motive power of the car,⁴ or to run it off the highway.⁵

of the statute. It would be putting an interpretation upon it never intended by the legislature, and contrary to the spirit and purpose of the act, to say it required the driver of an automobile, when he observed a horse he was approaching was about to become frightened, to stop his machine, but if the horse as they approached failed to give any premonitory symptoms of fright, but actually took fright, then the driver of the automobile might continue it in motion up to and past the horse, however badly he might be frightened, and however dangerous his doing so might be to the occupants of the vehicle drawn by the frightened horse."

² *State v. Goodwin*, 169 Ind. 265, 82 N. E. 459.

³ Under a statute providing that any person operating an automobile on the highway shall, when he meets persons driving a horse, stop the automobile upon receiving a signal "by putting up the hand from any such persons so driving," it is not necessary that the signal shall be given by the driver or manager of the horse in person, but it may be given by any occupant of the vehicle. *State v. Goodwin*, 169 Ind. 265, 82 N. E. 459.

⁴ A statute providing that the operator of any automobile or motor vehicle on any public highway, "when signaled by the driver of any vehicle propelled by horses, shall stop" said automobile or motor vehicle until the other vehicle shall have passed, does not impose upon the driver or operator of an automobile on a public road or street the absolute duty, upon signal, to stop the motive power of his vehicle, in addition to stopping the vehicle itself. *Mahoney v. Maxfield*, 102 Minn. 377, 113 N. W. 904, 12 Ann. Cas. 289, 14 L.R.A. (N.S.) 251.

⁵ The court can say as a matter of law that on receiving the statutory signal to stop, it is the duty of the driver of a motor vehicle in the first instance to run his car entirely outside of the traveled way in order to give the driver of a horse a safe passage. *Towle v. Morse*, 103 Me. 255, 68 Atl. 1044.

§ 85. Necessity for Forward Movement of Vehicle.

Where the statute requires the operator of a motor vehicle to stop upon signal from a horse-drawn vehicle, "unless a forward movement shall be deemed necessary to avoid accident or injury," it is for the operator to determine whether a forward movement is necessary in a particular case, and his conclusion under the circumstances is controlling on the question, unless he acts unreasonably or in bad faith.⁶

§ 86. Stopping in Case of Accident.

The statutes also, in many instances, require motorists, in case of accident, to stop and disclose their identity.⁷ This provision, like that requiring the display of the registered number, has for its purpose the prevention of reckless driving. The operator of a car which has been in a collision is obligated to return in order that his identity may be discovered, with a view to a determination of his responsibility for the accident. The position has been taken that this requirement violates the constitutional provision declaring that no person shall be "compelled in any criminal case to be a witness against himself," the court saying: "The test of the constitutionality of a law requiring a person to say or produce something, considered in the light of the provision exempting from self-accusation, is whether that something required to be said or produced is receivable in evidence. In the statute under consideration a person is required to make an oral statement. The event is one upon

⁶ *McCummins v. State*, 132 Wis. 236, 112 N. W. 25. In this case, where a signal to stop was given to defendant when he was eighteen or twenty rods distant from a frightened team, it was held that, under the circumstances shown, there was no necessity for him to move forward to avoid accident.

⁷ And see *infra*, § 262; *State v. Smith*, 29 R. I. 513, 72 Atl. 710.

which the criminal liability of the person may be predicated. The statement would have furnished not merely evidence of the defendant's identity, and in that connection a link in the chain of evidence against him in the event of his criminal prosecution, but also evidence of admitted culpability. It follows that the man making the statement, in the absence of any statutory immunity against prosecution, has been compelled to be a witness against himself in a criminal prosecution. Such was the nature of the statement required from this defendant demurrant under penalty of conviction of felony should he omit to make it. It is one thing to require operators of motor vehicles to carry identifying indicia before such persons have broken the law, and quite another to demand that they furnish a link in a chain of criminatory evidence against themselves." ⁸

But the result of fixing liability upon the driver of a car that has been in collision may be merely the revocation of his license to drive. This would seem to be the primary purpose of the provision. Of course the driver may be prosecuted criminally as a result of the collision. It may be doubted, however, whether the obligations imposed by this provision are so nearly related to any criminal prosecution that may be predicated upon the happening of the accident as to bring the law within the prohibition of the constitutional provision. It is very well known that in but a trifling percentage of the collision cases does the operator of a motor vehicle incur criminal responsibility. That a collision may be by remote possibility the foundation of a criminal prosecution, is an entirely different thing from

⁸ Per Judge Crain of the Court of General Sessions of New York city in the case of *People v. Rosenheimer*. N. Y. World, Jan. 17, 1911, p. 8.

compelling a person in a "criminal case" to be a witness against himself. The constitutional provision assumes that a person has been charged with the commission of a crime; a driver obeying the statute not only has not been charged with an offense, but must be presumed not to be guilty of any wrongdoing.

§ 87. Rates of Toll.

In the absence of statutes expressly designating the amount of toll that may be charged for the passage of automobiles over turnpike roads or bridges,⁹ the sum fixed by law for the passage of other vehicles applies to automobiles,¹ and motorists may not lawfully be required to pay a greater amount. The fact that motor vehicles were not known at the time of the passage of the act conferring the franchise can make no difference, for the reason that the grantee, by accepting the franchise in consideration of the right to collect the tolls stipulated for, assumed the duty and responsibility of building and maintaining a way that would meet the reasonable requirements of all travelers, including vehicles and animals then in common use by travelers, and also such as might thereafter come into common use.²

⁹ Consult the statutory provisions.

¹ An automobile is included in the general designation "other carriage of burden or pleasure," as this expression appears in an act authorizing turnpike companies to collect from "all and every person or persons using said road the toll and rates hereinafter mentioned . . . for coach, . . . sulky, . . . chaise, phaeton, . . . wagon, or any other carriage of burden or pleasure." *Scranton v. Laurel Run Turnpike Co.*, 223 Pa. St. 82, 73 Atl. 1063.

² *Mallory v. Saratoga Lake Bridge Co.*, 53 Misc. 446, 104 N. Y. S. 1025, holding that the owner of a toll bridge over which a public highway passes is limited to charging the tolls specifically granted by the franchise under which the bridge is maintained, and is not entitled to charge a greater sum for the passage of automobiles.

§ 88. Transportation of Motor Vehicles upon Vessels.

Under the federal statute permitting vehicles carrying gasoline for motive power to be transported upon passenger vessels, provided "all fire, if any, in such vehicles or automobiles be extinguished before entering the said vessel, and the same be not relighted until after said vehicle shall have left the same,"³ automobiles must enter and leave a vessel by some other method than the use of their own power.⁴ The provision in this act for extinguishment of "all fire" applies, it has been held, to automobiles equipped with internal combustion engines, employing an electric spark to ignite the explosive mixture, as well as to vehicles in which the gasoline is burned as fuel to generate steam.⁵

§ 89. Vehicles for Hire.

Motor vehicles kept for hire are subject to reasonable regulations.⁶ An ordinance requiring those who operate

³ Act of Congress Feb. 27, 1877, c. 69, Rev. St. § 4472, and Act Feb. 20, 1901, c. 386, 31 St. L. 799.

⁴ The Texas, 134 Fed. 909.

⁵ The Texas, 134 Fed. 909.

⁶ The imposition of a license tax, for example. See *District of Columbia v. Fickling*, 33 App. Cas. (D. C.) 371.

Stopping or Loitering upon Streets.—Automobiles used for hire, and for which their owners have public hack licenses, are vehicles within the meaning of an ordinance providing that "vehicles for hire, seeking employment, shall not stop or loiter upon any street, except at the regular public stands;" and where the owner of automobiles kept for hire permits them to stand in front of a hotel which he does not own, at a place which is not a public cab stand, he violates the ordinance, even though he maintains an agency in the hotel and hires the vehicles to the hotel's guests as well as to the public generally. Furthermore, under the ordinance, either the owner or the driver of an automobile kept for hire may be punished for its stopping or loitering. *Gassenheimer v. District of Columbia*, 26 App. Cas. (D. C.) 557, 6 Ann. Cas. 920, *distinguishing* *Gassenheimer v. District of Columbia*, 25 App. Cas. (D. C.) 179, and *Willard Hotel Co. v. District of Columbia*, 23 App. Cas. (D. C.) 272.

motor vehicles for hire to carry all persons who apply for passage, tendering the legal fare, is reasonable.⁷ And a regulation which provides for a convenient notification to intending passengers that a public vehicle is already in actual use, such provision being as well for the convenience of the driver, has nothing unreasonable in it.⁸

§ 90. Further Subjects of Regulation.

The use and operation of motor vehicles have been made the subject of State and municipal regulation in numerous other respects,⁹ and in several instances, in addition to those referred to in the preceding pages, these regulations have been the subject of judicial consideration. The tendency of the courts is to sustain legislation respecting motor vehicles, and to give full effect to all enactments that have a tendency to minimize the danger and inconvenience suffered by pedestrians and drivers of horses from their use. The courts have affirmed the validity of regulations respecting the height of vehicles driven in parks,¹ the use of vehicles for

⁷ *Fonsler v. Atlantic City*, 70 N. J. L. 125, 56 Atl. 119.

⁸ *Fonsler v. Atlantic City*, 70 N. J. L. 125, 56 Atl. 119.

⁹ Examine local statutes and ordinances.

¹ *Height of Vehicles Driven in Parks*.—Under a statute which permits the board of park commissioners of a city to pass ordinances regulating the use of parks by the public, an ordinance which provides that no vehicle of any kind or description measuring over ten feet from the tread of the wheel to the highest portion of the vehicle, whether propelled by muscular or motive power, shall be allowed to run along any driveway of any park or parkway under the jurisdiction of the department of parks, has been held to exclude automobiles measuring over ten feet in height from the use of such streets, and to be a reasonable and valid regulation. And a coach company, by operating its vehicles upon a driveway to which such an ordinance applies, thereby subjects itself to the regulation, and is properly convicted of a violation thereof for driving a double-decked motor omnibus which exceeds the prescribed height by more than a foot. *People v. Schellenberg*, 133 App. Div. 79, 117 N. Y. Supp. 820.

purposes of advertisement,² and the leaving of vehicles standing in the street.³

²*Display of Advertising Signs.*—An ordinance passed by the city of New York, providing that no advertising trucks, vans, or wagons shall be permitted to operate in the streets of the borough of Manhattan, has been held to be valid, and applicable to stages, run by motor power, with advertising signs displayed on the exterior thereof. *Fifth Ave. Coach Co. v. New York*, 194 N. Y. 19, 16 Ann. Cas. 695, 86 N. E. 824, 21 L.R.A. (N.S.) 744, *affirming* 126 App. Div. 657, 110 N. Y. Supp. 1037, which *affirmed* 58 Misc. 401, 111 N. Y. Supp. 759.

³*Leaving Cars Standing in Street.*—A regulation of the Board of Street Commissioners of the City of Boston forbidding the leaving of automobiles standing in the street for more than twenty minutes is not invalid as being in conflict with the general laws of Massachusetts. *Com. v. Newhall*, 205 Mass. 344, 91 N. E. 206.

CHAPTER VI.

MUTUAL RIGHTS AND DUTIES OF OPERATORS OF MOTOR VEHICLES, AND OTHERS, ON HIGHWAY.

Generally.

- § 91. Basis of Liability of Operators of Motor Vehicles.
- 92. Duties of Operators to Be Determined by Common Law and Statutes.
- 93. Presumption and Burden of Proof Respecting Negligence.
- 94. Mutual Obligation of Operators of Motor Vehicles, and Others.
- 95. Exercise of Reasonable Care.
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Generally.

§ 91. Basis of Liability of Operators of Motor Vehicles.

Motor vehicles are vehicles that lawfully may be used upon the highways, and persons operating them are not liable as insurers, but only for failure to exercise the degree of care which the circumstances require.¹ A person seeking to hold the owner of such a vehicle liable for an injury sustained by him must plead and prove that some act of negligence on the part of the defendant in the operation of the vehicle was the proximate cause of the injury.²

§ 92. Duties of Operators to Be Determined by Common Law and Statutes.

In the absence of statute prescribing the duties of persons operating motor vehicles, the liability incurred in the use of such vehicles is to be determined by the rules of the common law.³

Statutes prescribing the duties of operators of motor vehicles and other persons using the highways do not exclude other reasonable precautions.⁴

§ 93. Presumption and Burden of Proof Respecting Negligence.

Negligence is not presumed, but must be proved, and the burden of establishing the fact by a preponderance of evidence⁵ rests upon the plaintiff, whether he be a person

¹ McIntyre v. Orner, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359; Walkup v. Beebe, 139 Ia. 395, 399, 116 N. W. 321; Simmons v. Lewis, (Ia.) 125 N. W. 194, 195. And see *supra*, § 14.

² Sapp v. Hunter, 134 Mo. App. 694, 115 S. W. 463.

³ Lewis v. Amorous, 3 Ga. App. 50, 57, 59 S. E. 338.

⁴ Reed v. Snyder, 38 Pa. Super. Ct. 421.

⁵ Hannigan v. Wright, 5 Penn. (Del.) 537, 542, 63 Atl. 234.

claiming damages from the operator of a motor vehicle,⁶ or such an operator alleging damage by the act of another person,⁷ unless the facts of the case are such as to call for the application of the doctrine of *res ipsa loquitur*,⁸ or the rule has been changed by statute.⁹

§ 94. Mutual Obligation of Operators of Motor Vehicles, and Others.

A person operating an automobile and a person lawfully using the highway in another manner ordinarily have equal rights thereon,¹ and it is the duty of each to exercise his right with due regard to the right of the other.² The legal measure of duty is the same upon both of the parties.³

§ 95. Exercise of Reasonable Care.

Reasonable care to avoid accident must be exercised both by the operators of motor vehicles⁴ and by others on the

⁶ Hannigan v. Wright, 5 Penn. (Del.) 537, 542, 63 Atl. 234; Young v. Sibley, etc., Co., 119 N. Y. Supp. 446.

⁷ O'Donohue v. Duparquet, etc., Co., 67 Misc. 435, 123 N. Y. Supp. 193.

⁸ O'Donohue v. Duparquet, etc., Co., 67 Misc. 435, 123 N. Y. Supp. 193.

⁹ By statute in at least one jurisdiction, where any loss or damage has been incurred or sustained by a person by reason of a motor vehicle on a highway, the onus is imposed on the owner or driver of proving that the loss or damage did not arise through his negligence. McIntyre v. Coote, 19 Ont. L. Rep. 9, 16 Ann. Cas. 395.

¹ See *supra*, § 17.

² Towle v. Morse, 103 Me. 250, 68 Atl. 1044.

Duty of Operators of Motor Vehicles.—Haynes Automobile Co. v. Sinnett, (Ind.) 91 N. E. 172; Wright v. Crane, 142 Mich. 508, 106 N. W. 71; Liebrecht v. Crandall, 110 Minn. 454, 126 N. W. 70.

³ Webb v. Moore, 136 Ky. 708, 125 S. W. 153.

⁴ Hannigan v. Wright, 5 Penn. (Del.) 537, 540, 63 Atl. 234; Simeone v. Lindsay, 6 Penn. (Del.) 226, 65 Atl. 778; Cecchi v. Lindsay, (Del.) 75 Atl. 377; Christy v. Elliott, 216 Ill. 31, 74 N. E. 1035, 3 Ann. Cas.

highways,⁵ and each has a right to assume that the other will discharge this duty.⁶ The operator of an automobile has the right to assume and to act upon the assumption that every person whom he meets will exercise ordinary care and caution according to the circumstances, and will not negligently or recklessly expose himself to danger, but rather make an attempt to avoid it.⁷ And persons who are lawfully in the street or highway are not bound to

487, 1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196; *Johnson v. Coey*, 237 Ill. 88, 92, 86 N. E. 678, 21 L.R.A.(N.S.) 81, *affirming* 142 Ill. App. 147; *Chicago v. Banker*, 112 Ill. App. 94, 99; *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A.(N.S.) 238; *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359; *Haynes Automobile Co. v. Sinnett*, (Ind.) 91 N. E. 172; *House v. Cramer*, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A.(N.S.) 655; *Webb v. Moore*, 136 Ky. 708, 125 S. W. 153; *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 875; *Arseneau v. Sweet*, 106 Minn. 257, 119 N. W. 46; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582; *Murphy v. Wait*, 102 App. Div. 121, 92 N. Y. Supp. 253; *Thies v. Thomas*, 77 N. Y. Supp. 276; *Spangler v. Markley*, 39 Pa. Super. Ct. 351.

Liability for Punitive Damages.—It is only where negligence of a driver of an automobile is of such a character as to manifest a wanton disregard for the lives or safety of others, or is wilful or malicious, that he becomes liable for punitive damages. *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 282.

⁵ *Simeone v. Lindsay*, 6 Penn. (Del.) 226, 65 Atl. 778; *Cecchi v. Lindsay*, (Del.) 75 Atl. 377.

⁶ *Assumption by Operators of Motor Cars.*—*Brewster v. Barker*, 129 App. Div. 724, 113 N. Y. Supp. 1026; *Spangler v. Markley*, 39 Pa. Super. Ct. 351.

Others on Highway.—*Diamond v. Cowles*, 174 Fed. 571, 98 C. C. A. 417; *Burvant v. Wolfe*, (La.) 52 So. 1025; *Hennessey v. Taylor*, 189 Mass. 583, 76 N. E. 224, 4 Ann. Cas. 396, 3 L.R.A.(N.S.) 345; *Arseneau v. Sweet*, 106 Minn. 257, 259, 119 N. W. 46; *Buscher v. New York Transp. Co.*, 106 App. Div. 493, 94 N. Y. Supp. 798; *Dugan v. Lyon*, 41 Pa. Super. Ct. 52.

⁷ *Thies v. Thomas*, 77 N. Y. Supp. 276.

anticipate negligence on the part of drivers of automobiles that may entail injury upon them.⁸

§ 96. Degree of Care Required of Operators by Reason of Danger.

The automobile being a dangerous vehicle,⁹ its possession imposes upon the operator the duty of employing a degree of care commensurate with the risk of injury to others,¹ and consistent with its safe use.² The protection

⁸ *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 770.

⁹ See *supra*, § 11 *et seq.*

¹ *McDonald v. Yoder*, 80 Kan. 25, 101 Pac. 468; *Weil v. Kreutzer*, 134 Ky. 563, 121 S. W. 471, 24 L.R.A.(N.S.) 557; *Liebrecht v. Crandall*, 110 Minn. 454, 126 N. W. 69, 70; *Hall v. Compton*, 130 Mo. App. 675, 108 S. W. 1122; *Tudor v. Bowen*, 152 N. C. 441, 67 S. E. 1015; *Grant v. Armstrong*, 55 Wash. 365, 104 Pac. 632.

The automobile, it has been said, "is of great weight, made very strong, and in a collision with an ordinary vehicle is capable of smashing it without serious damage to the machine itself, and while it has equal rights on the road with the ordinary vehicle, it is a sort of menace to the traveling public, and on account of the danger to others incident to its operation upon public highways, the chauffeur in charge is bound to exercise care commensurate with the risk of injury to other vehicles and pedestrians on the road." *McFern v. Gardner*, 121 Mo. App. 1, 10, 97 S. W. 972. And it has been said: "Such vehicles furnish a convenient and useful mode of travel and transportation not incompatible with the proper use of the highway by others; but in consequence of the great speed with which they may be run, their size and general appearance, the noises made in their use, the infrequency of their use in particular localities, and the circumstances of the particular occasions of their use, commensurate care, skill, and diligence must be required of the persons employing such means of transportation. The general rule applies that he must so use his own as not to injure another." *Brinkman v. Pacholke*, 41 Ind. App. 662, 666, 84 N. E. 762.

² *Garrett v. People's R. Co.*, 6 Penn. (Del.) 34, 64 Atl. 254; *Shinkle v. McCullough*, 116 Ky. 960, 966, 77 S. W. 196, 105 Am. St. Rep. 249; *Gregory v. Slaughter*, 124 Ky. 345, 355, 99 S. W. 247, 8 L.R.A.(N.S.) 1228; *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 878; *McFern v. Gardner*,

of the public requires that great care should be exercised.³ This no doubt requires the exercise of every reasonable precaution to prevent injury, and it has been said, even, that the degree of care is the same as that imposed upon street car motormen.⁴

§ 97. Circumstances of Case Determinative of Degree of Care.

But the circumstances of the case must be considered in determining whether the driver of an motor vehicle has

121 Mo. App. 1, 10, 97 S. W. 972; *Knight v. Lanier*, 69 App. Div. 454, 74 N. Y. Supp. 999; *Spangler v. Markley*, 39 Pa. Super. Ct. 351.

³ *Weil v. Kreutzer*, 134 Ky. 563, 121 S. W. 471, 472, 24 L.R.A. (N.S.) 557; *Com. v. Kingsbury*, 199 Mass. 542, 544, 85 N. E. 848, 127 Am. St. Rep. 513.

⁴ *Every Reasonable Precaution*.—It has been said that "it is the consensus of judicial opinion that it is the duty of the operator of an automobile upon highways and public streets to use every reasonable precaution to avoid causing injury." *Tudor v. Bowen*, 152 N. C. 441, 67 S. E. 1015.

Care of Prudent Persons.—In other decisions it is said that drivers of automobiles should operate them with that degree of care and prudence and that consideration for the rights and safety of others to be expected of ordinarily prudent and humane persons. *Simeone v. Lindsay*, 6 Penn. (Del.) 227, 65 Atl. 778; *Cecchi v. Lindsay*, (Del.) 75 Atl. 377; *Hall v. Campton*, 130 Mo. App. 675, 108 S. W. 1122.

Degree of Care Same as Imposed on Street Car Operatives.—And it has been said: "We can see no reason why the chauffeur in charge of an automobile, traveling on a public highway in a populous city, should not be held to the same degree of care in respect to pedestrians and other vehicles upon the street as is a motorman in charge of a street car running on a public street; if so, then it was the duty of defendant's chauffeur to keep a vigilant watch ahead for vehicles and pedestrians, and on the first appearance of danger to take proper steps to avert it." *McFern v. Gardner*, 121 Mo. App. 1, 97 S. W. 972.

neglected to exercise the care incumbent upon him.⁵ Drivers are required to exercise such care and prudence as the circumstances demand—care in proportion to the danger or the risks in each case.⁶ The greater the danger to others from the operation of the vehicle, the greater the care that must be exercised by the driver.⁷ When an operator has had time to realize, or by the exercise of a proper lookout should have realized, that a person whom he meets is in a perilous position, or in a position of disadvantage, and therefore seemingly unable to avoid the coming automobile, he must exercise increased exertion to avoid an accident.⁸ Greater caution is required at street crossings and in the more thronged streets of a city than in the less obstructed streets in the open or suburban parts thereof.⁹

Likewise, in determining the degree of care and caution required in the use of a motor vehicle, consideration is to be given to its character,¹ speed, size, appearance, noise, manner of movement,² and anything else that indicates

⁵ *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A.(N.S.) 238; *Webb v. Moore*, 136 Ky. 708, 125 S. W. 153; *Tudor v. Bowen*, 152 N. C. 441, 67 S. E. 1015.

⁶ *Apperson v. Lazro*, 44 Ind. App. 186, 87 N. E. 97, 88 N. E. 99.

⁷ *New York Transp. Co. v. Garside*, 157 Fed. 525, 85 C. C. A. 285. *Simeone v. Lindsay*, 6 Penn. (Del.) 227, 65 Atl. 778; *Cecchi v. Lindsay*, (Del.) 75 Atl. 377.

⁸ *Spangler v. Markley*, 39 Pa. Super. Ct. 351.

⁹ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 377.

¹ *Wright v. Crane*, 142 Mich. 508, 106 N. W. 71, 12 Detroit Leg. N. 794. The more dangerous the character of the vehicle, and the greater its liability to do injury to others, the greater the degree of care and caution required in its use and operation. *Cecchi v. Lindsay*, (Del.) 75 Atl. 377.

² *Hannigan v. Wright*, 5 Penn. (Del.) 541, 63 Atl. 234; *Delfs v. Dunshee*, 143 Ia. 381, 122 N. W. 239; *House v. Cramer*, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A.(N.S.) 655.

unusual or peculiar danger,³ as well as the means of locomotion of others upon the highway.⁴

§ 98. Competency to Operate Vehicle.

The management of automobiles requires the exercise of skill,⁵ care,⁶ and sound judgment,⁷ in order to avoid injury to other persons on the highway.⁸ And negligence authorizing a recovery by a person who has sustained an injury may be predicated upon the incompetency of the driver of the car.⁹

³ *Hannigan v. Wright*, 5 Penn. (Del.) 537, 541, 63 Atl. 234; *House v. Cramer*, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A.(N.S.) 655.

But the condition of the highway three hundred feet from where the accident occurred is too remote therefrom to render it a material factor. Consequently evidence relating thereto is properly excluded. *Strand v. Grinnell Automobile Garage Co.*, 136 Ia. 68, 71, 113 N. W. 488.

⁴ *Delfs v. Dunshee*, 143 Ia. 381, 122 N. W. 239.

⁵ *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1. The management of an automobile properly can be trusted only to a skilled expert. *Shepard v. Jacobs*, 204 Mass. 110, 113, 90 N. E. 392, 26 L.R.A.(N.S.) 442, 134 Am. St. Rep. 648.

It is a complicated machine, and cannot be safely run by an inexperienced person and is not ordinarily run by a lady chauffeur. *Walker v. Grout Bros. Automobile Co.*, 124 Mo. App. 628, 102 S. W. 25.

Opinion Evidence.—It is error to permit a witness to give his opinion as to the competency of a person to drive an automobile, as the jury is capable of drawing the proper inferences from a statement of the fact. *Pantages v. Seattle Electric Co.*, 55 Wash. 453, 104 Pac. 629.

⁶ See *supra*, §§ 95, 96.

⁷ *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

⁸ *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁹ See *Navailles v. Diekmann*, 124 La. 421, 50 So. 449, 134 Am. St. Rep. 508.

§ 99. Obedience to Law Generally.

It is the duty of operators of motor vehicles to obey the laws regulating the use of such vehicles. Disregard of or inattention to such duty is deemed by the weight of authority to constitute negligence,¹ giving a right of action to a person who suffers an injury² as a proximate result thereof;³ although some courts consider a disobedience of law as merely evidence of negligence.⁴ In *New York* the rule is well settled that a violation of a statute or municipal ordinance by those operating a train, car, or vehicle does not in and of itself constitute negligence. The jury must determine from all the circumstances, including the fact of the violation of the statute or municipal ordinance, whether the party violating it was guilty of contributory negligence.⁵

§ 100. Rules of the Road Generally.

In the operation of motor vehicles drivers must obey the "law of the road,"⁶ the rules of which, except as modified

¹ *Fenn v. Clark*, 11 Cal. App. 79, 103 Pac. 944; *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 727; *Wolfe v. Ives*, (Conn.), 76 Atl. 526; *Cecchi v. Lindsay*, (Del.) 75 Atl. 377; *Haynes Automobile Co. v. Sinnett*, (Ind.), 91 N. E. 172; *Delfs v. Dunshee*, 143 Ia. 381, 122 N. W. 239; *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 281; *Zoltovski v. Gzella*, 159 Mich. 620, 124 N. W. 527, 26 L.R.A. (N.S.) 435; *Liebrecht v. Crandall*, 110 Minn. 454, 126 N. W. 69; *Hough v. St. Louis Car Co.*, (Mo.) 123 S. W. 83. See *State v. Welford*, 29 R. I. 450, 72 Atl. 396; *Posener v. Harvey*, (Tex.) 125 S. W. 356.

² *Fenn v. Clark*, *supra*; *Cecchi v. Lindsay*, (Del.) 75 Atl. 377; *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 281.

³ *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 281.

⁴ *McCarragher v. Proal*, 114 App. Div. 470, 100 N. Y. Supp. 208; *Mendleson v. Van Rensselaer*, 118 App. Div. 516, 103 N. Y. Supp. 578; *People v. Scanlon*, 132 App. Div. 528, 117 N. Y. Supp. 57.

⁵ *McCarragher v. Proal*, 114 App. Div. 470, 100 N. Y. Supp. 208.

As to definiteness and certainty of complaint alleging violation of law, see *Harrington v. Stillman*, 120 App. Div. 659, 105 N. Y. S. 75.

⁶ *McDonald v. Yoder*, 80 Kan. 25, 27, 101 Pac. 468.

by statute, are the same as those formulated as the result of long usage for the government of simpler vehicles such as wagons.⁷ The fundamental principle of conduct is that of reasonable care and accommodation measured by the immediate circumstances of each case and exercised by each traveler for the purpose of affording to the other his just and reasonable rights in the highway.⁸

§ 101. Rule When Vehicles Meet.

The rule obtaining in America and in most of the provinces of Canada requires drivers of vehicles approaching one another from opposite directions to keep to the right when passing.⁹ While this rule does not obligate the driver of a motor vehicle to turn out to the right upon seeing an approaching vehicle, yet he should do so seasonably.¹

§ 102. Rule When One Vehicle Overtakes Another.

When two vehicles are moving in the same direction, and the driver of the one in the rear desires to pass the one in front of him, the American rule requires him to pass it on its left, the driver of the vehicle in front keeping over to the right while being passed.²

⁷ *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A. (N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137.

⁸ *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A. (N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137.

⁹ *State v. Unwin*, 75 N. J. L. 500, 68 Atl. 110, *affirming* 73 N. J. L. 529, 64 Atl. 163; *Peters v. Cuneo*, 123 App. Div. 740, 108 N. Y. Supp. 264.

¹ *Peters v. Cuneo*, 123 App. Div. 740, 108 N. Y. Supp. 264.

² *State v. Unwin*, 75 N. J. L. 500, 68 Atl. 110, *affirming* 73 N. J. L. 529, 64 Atl. 163; *Peters v. Cuneo*, 123 App. Div. 740, 108 N. Y. Supp. 264.

§ 103. Rule in Turning Corners.

In turning corners vehicles are obliged to keep to the right, according to the American rule,³ and the general automobile statutes frequently require drivers to keep to the right of the centre of intersection of the two highways or streets.⁴

§ 104. Effect of Violation of Rules of Road.

A violation of these requirements, according to the rule recognized by the weight of authority, is negligence.⁵ If a collision takes place and it appears that one of the parties was on the wrong side of the road, the presumption is generally against such party.⁶ And if a driver turns from a side street sharply to the left he is guilty of negligence.⁷

Some courts, however, as is pointed out above,⁸ regard such a violation as evidence of negligence, merely. It is held that a violation of the statute requiring a vehicle in turning from one highway into an intersecting highway to keep to the right of the centre of intersection of the two ways is some evidence of negligence.⁹ Likewise it is held that while the violation of a city ordinance giving to vehicles moving north or south the right of way at intersecting

³ *Irwin v. Judge*, 81 Conn. 499, 71 Atl. 572.

⁴ Consult the statutes.

⁵ See *supra*, § 99.

But the violation must have been the proximate cause of the injury in order to render the defendant liable. *Needy v. Littlejohn*, 137 Ia. 704, 115 N. W. 483. See also *McFern v. Gardner*, 121 Mo. App. 1, 97 S. W. 972.

⁶ *McGee v. Young*, 132 Ga. 606, 607, 64 S. E. 689. See also *Clark v. Van Vleck*, 135 Ia. 194, 112 N. W. 648; *Macandrew v. Tillard*, [1909] Sc. Ct. Sess. 78.

⁷ *Irwin v. Judge*, 81 Conn. 499, 71 Atl. 572.

⁸ See § 99.

⁹ *Mendleson v. Van Rensselaer*, 118 App. Div. 516, 103 N. Y. Supp. 578.

streets over those moving east and west does not of itself constitute negligence, yet it should be considered by the jury on the question of negligence.¹

§ 105. Looking Ahead.

The driver of an automobile is bound to anticipate the presence of pedestrians and vehicles upon the highway. Therefore he must look ahead in a proper manner,² and see all such persons or vehicles as come within his vision;³ and in case of accident he will be conclusively presumed to have seen what he should and could have seen in the proper performance of such duty.⁴

It is no justification, it seems, for the failure of the driver of an automobile to look ahead, that it is necessary for him to keep his eyes and attention fixed on the track of the road in order to enable him to guide the car so as to avoid defects therein.⁵

§ 106. Sounding Signals.

Motor vehicles are customarily furnished with a signaling device, with which to sound a warning of their approach,⁶ and cars are required to be equipped with such a device by many of the statutes.⁷

¹ McCarragher v. Proal, 114 App. Div. 470, 100 N. Y. Supp. 208.

² Johnson v. Coey, 237 Ill. 88, 86 N. E. 678, 21 L.R.A.(N.S.) 81, affirming 142 Ill. App. 147; Burvant v. Wolfe, (La.) 52 So. 1025; McFern v. Gardner, 121 Mo. App. 1, 11 97 S. W. 972 (vigilant lookout); Thies v. Thomas, 77 N. Y. Supp. 276.

Driver Must Look to Rear When Backing Car.—Shamp v. Lambert, 142 Mo. App. 567, 121 S. W. 773, 774.

³ McDonald v. Yoder, 80 Kan. 25, 101 Pac. 468.

⁴ McDonald v. Yoder, 80 Kan. 25, 101 Pac. 468.

⁵ McIntyre v. Orner, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359.

⁶ Delfs v. Dunshee, 143 Ia. 381, 122 N. W. 239.

⁷ Consult the statutes.

Whether the sounding of a signal is essential in the exercise of due care must be determined from the circumstances of each case.⁸ A failure to do so may constitute negligence,⁹ and does amount to negligence, under the rule recognized by the weight of authority,¹ when a sounding of such signal is required by law.² But, of course, it must be shown that the negligence was the proximate cause of the injury. The mere nonobservance of the statute cannot be relied upon in the absence of proof that it brought about the plaintiff's injury.³ And if an automobile was seen approaching by a person who demands damages for injuries sustained by being struck by such car, the fact that the driver neglected to sound a warning signal is unimportant.⁴

§ 107. Displaying Lights.

The necessity for a motor vehicle to display lights is a question of fact,⁵ unless a failure to do so is a violation of

⁸ *Delfs v. Dunshee*, 143 Ia. 381, 122 N. W. 239.

⁹ *Gifford v. Jennings*, 190 Mass. 54, 76 N. E. 233; *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 774; *Bradley v. Jaeckel*, 65 Misc. 509, 119 N. Y. Supp. 1071.

Overtaking Horse-drawn Vehicle.—The failure of an automobile driver to sound his horn to give warning of his approach from the rear to a driver of a horse-drawn vehicle may be found by the jury to be negligence rendering the automobile owner liable for injuries caused by the kicking of the horse as the automobile is attempting to pass. *Gifford v. Jennings*, 190 Mass. 54, 76 N. E. 233.

¹ See *supra*, § 99.

² *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 279, 281.

³ *Cumberland Telephone, etc., Co. v. Yeiser*, (Ky.) 131 S. W. 1049.

⁴ *West v. New York Transp. Co.*, 47 Misc. 603, 94 N. Y. Supp. 426. Consequently the admission of proof that the horn was not sounded is not prejudicial. *Thomas v. Armitage*, 111 Minn. 238, 126 N. W. 735.

⁵ It has been held that whether it is the exercise of due care to run an automobile in the dark without a headlight to warn others using the highway is a question for the jury. *Wright v. Crane*, 142 Mich. 508, 106 N. W. 71.

law, in which case such failure⁶ becomes negligence⁷ or evidence thereof; and this has been held to be true although it appears that the person injured by the automobile did not look toward it.⁸

§ 108. Appliances for Controlling Vehicle.

If an accident results from a defect in or derangement of the appliances by which the movement of an automobile is controlled, and such defect or derangement is not attributable to any negligence on the part of the driver, he may not be held liable for damage occasioned by such accident.⁹ But, of course, if the defect or derangement was caused by the negligence of the driver, he may be held liable for the resulting injury.¹

§ 109. Speed Generally.

It is the duty of a person operating a motor vehicle to move it at such a rate of speed as is reasonable under the circumstances,² and so as not to endanger the life and limb

⁶ As to whether a violation of law is negligence, see *supra*, § 99.

⁷ *Buford v. Hopewell*, (Ky.) 131 S. W. 502; *Zoltovski v. Gzella*, 159 Mich. 620, 124 N. W. 527, 26 L.R.A.(N.S.) 435, 134 Am. St. Rep. 752. To operate an automobile on the streets in the night time, without lights, in violation of a municipal ordinance, is negligence, and a person run down by an automobile so operated may recover upon showing that such negligence contributed directly to his injury, provided he was not guilty of contributory negligence. *Fenn v. Clark*, 11 Cal. App. 79, 103 Pac. 944.

⁸ *Zoltovski v. Gzella*, 159 Mich. 620, 124 N. W. 527, 26 L.R.A.(N.S.) 435, 134 Am. St. Rep. 752.

⁹ *Johnson v. Coey*, 237 Ill. 92, 86 N. E. 678, 21 L.R.A.(N.S.) 81, *affirming* 142 Ill. App. 147. See also *Posener v. Harvey*, (Tex.) 125 S. W. 346.

¹ *Johnson v. Coey*, 237 Ill. 92, 86 N. E. 678, 21 L.R.A.(N.S.) 81, *affirming* 142 Ill. App. 147.

² *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 377; *Haynes Automobile Co. v. Sinnett*, (Ind.) 91 N. E. 172.

of others in the enjoyment of the highway,³ regardless of the rate permitted by law. It has been said: "No owner or operator of an automobile is therefore exempt from liability for a collision in a public street by simply showing that at the time of the accident he did not run at a rate of speed exceeding the limit allowed by law or the ordinances. . . . No matter how great the rate of speed may be which the law and the ordinances permit, . . . he still remains bound to anticipate that he may meet persons at any point in a public street, and he must keep a proper lookout for them, and keep his machine under such control as will enable him to avoid a collision with another person also using proper care and caution; if necessary he must slow up, and even stop."⁴

Evidence Showing Speed Immediately Preceding Accident.—A witness testified for the plaintiff that the defendant's automobile when it passed him, which was some quarter of a mile from the point where the accident occurred, was going very fast, that he immediately speeded his horse up to twelve miles an hour or more, following the car, yet that it was running so fast that by the time it reached the place where the accident occurred it had gained two hundred yards on him. It was objected by counsel for defendant that the testimony was irrelevant and misleading on the ground that it did not show the speed of the machine as it reached the point where the injury occurred. The court held the evidence to be relevant. *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 279, 282. Similarly it has been held that the testimony of a witness that he saw the automobile going down the street at a "lively gait" and in a reckless way, that he saw several persons make "lively escapes," and that he saw the machine strike the plaintiff less than one hundred feet from where such escapes were made, is not incompetent as showing the speed before the accident but not tending to show the rate of speed at the time of the accident. *Olsen v. Levy*, 8 Cal. App. 487, 97 Pac. 76.

³ *Garrett v. People's R. Co.*, 6 Penn. (Del.) 29, 34, 64 Atl. 254; *Haynes Automobile Co. v. Sinnett*, (Ind.) 91 N. E. 171, 172; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

⁴ *Thies v. Thomas*, 77 N. Y. Supp. 276.

The driver of a motor vehicle must have his car under such control as to enable him to avoid collision with other persons or vehicles,⁵ and when danger is imminent he must reduce the speed,⁶ or stop, if need be.⁷ The idea prevailing

⁵ *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572; *Johnson v. Coey*, 237 Ill. 88, 86 N. E. 678, 21 L.R.A.(N.S.) 81, *affirming* 142 Ill. App. 147; *Bradley v. Jaeckel*, 65 Misc. 509, 119 N. Y. S. 1071; *Thies v. Thomas*, 77 N. Y. Supp. 276; *Macandrew v. Tillard*, [1909] Sc. Ct. Sess. 78. That the hazard to life and property increase with the speed of the machine and the corresponding difficulty of keeping it under control must be conceded. *Ex p. Snowden*, 12 Cal. App. 521, 107 Pac. 724, 726.

A high rate of speed is defined as an unreasonable rate considering the time and place, and one which prevents a driver from controlling his car so as to avoid collision, even though it is less than the maximum statutory rate within the limits of a city. *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572.

Inference from Immediate Stoppage of Car.—The fact that an automobile was stopped instantly or within a few feet after danger became apparent or an accident occurred indicates that it was proceeding slowly or not unreasonably fast. *Zoltovski v. Gzella*, 159 Mich. 620, 124 N. W. 527, 26 L.R.A.(N.S.) 435, 134 Am. St. Rep. 752; *Davis v. Maxwell*, 108 App. Div. 132, 96 N. Y. Supp. 45; *West v. New York Transp. Co.*, 47 Misc. 603, 94 N. Y. Supp. 426.

⁶ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 377; *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A.(N.S.) 238; *Thies v. Thomas*, 77 N. Y. Supp. 276.

An instruction as to the liability of the driver of an automobile for damages on the theory that he had time to slacken the speed of his car after knowledge of the plaintiff's danger, and did not do so, is harmless, where the answers to the interrogatories to the jury show that such automobilist increased his speed after such knowledge. *Brinkman v. Pacholke*, 41 Ind. App. 662, 84 N. E. 762.

Persons Contemplated by Statute Requiring Reduced Speed.—Where the language of the provision of the statute requiring automobiles to slacken speed when approaching an intersecting highway is imperative and without exception, it will be construed to apply in respect of persons upon the same highway as the approaching automobile as well as to those who may be upon the intersecting way. *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 279.

⁷ *New York Transp. Co. v. Garside*, 157 Fed. 526, 85 C. C. A. 285,

among some motor car drivers that when once they have sounded the horn, they are justified in going at any rate of speed, and that people are bound to get out of their way,⁸ is erroneous. The sounding a signal does not affect the duty of slackening speed.¹

§ 110. Inference from Violation of Speed Law.

A failure to comply with these requirements subjects drivers to liability for damage attributable thereto.² Thus if a driver at the time of an accident was operating his automobile at such a high rate of speed as prevented him from maintaining control of it, such rate of speed was unreasonable and he was negligent.³ Likewise the law requires that automobiles shall not be run at an improper and unreasonable rate of speed, and if this law is disregarded and injury follows to a traveler who is lawfully occupying the highway and whose rights are equal, then the driver must respond in damages.⁴ And the driving of an automobile along a thickly populated street, where there are

modifying 146 Fed. 588; *Simeone v. Lindsay*, 6 Penn. (Del.) 226, 65 Atl. 778; *Cecchi v. Lindsay*, (Del.) 75 Atl. 377; *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A. (N.S.) 238; *McFern v. Gardner*, 121 Mo. App. 10, 97 S. W. 972; *Thies v. Thomas*, 77 N. Y. Supp. 276.

² Per Lord Alverstone in *Troughton v. Manning*, 20 Cox C. C. (Eng.) 861, 69 J. P. 207; *Mattei v. Gillies*, 16 Ont. L. Rep. 558, 12 Ann. Cas. 970.

¹ *Thies v. Thomas*, 77 N. Y. Supp. 276.

² *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572, *citing* *Buscher v. New York Transp. Co.*, 106 App. Div. 493, 94 N. Y. Supp. 798; *Thies v. Thomas*, 77 N. Y. Supp. 276; *Kathmeyer v. Mehl*, (N. J.) 60 Atl. 40, and *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359.

³ *Simeone v. Lindsay*, 6 Penn. (Del.) 227, 65 Atl. 778.

⁴ *Haynes Automobile Co. v. Sinnett*, (Ind.) 91 N. E. 171, 172.

pedestrians and teams of all kinds, at the rate of twenty-five miles an hour, is a reckless act.⁵

Proceeding at a rate exceeding the speed limit by a majority of courts⁶ is held to constitute negligence⁷ and possibly defiance of law,⁸ though some courts regard it as only evidence of negligence.⁹ And it would seem that the mere rate of speed at which a motor vehicle was being operated at the time of an accident, whether lawful or unlawful, is immaterial unless it enters into the cause of the accident.¹

⁵ Grant v. Armstrong, 55 Wash. 365, 104 Pac. 632.

⁶ As to whether a violation of law is negligence see *supra*, § 99.

Proof of Previous Convictions.—Where the plaintiff in an action to recover for personal injuries caused by an automobile does not charge the defendant with exceeding the legal rate of speed, it is error to permit him to show that the defendant had been convicted of exceeding the speed limit on other occasions. Such evidence is incompetent to impeach the character of the defendant, as the crime is not one involving moral turpitude. See v. Wormser, 129 App. Div. 596, 113 N. Y. Supp. 1093.

⁷ Delfs v. Dunshee, 143 Ia. 381, 122 N. W. 239; National Casket Co. v. Powar, 137 Ky. 156, 125 S. W. 279; Liebrecht v. Crandall, 110 Minn. 454, 126 N. W. 69; Hough v. St. Louis Car Co., (Mo.) 123 S. W. 83; Posener v. Harvey, (Tex.) 125 S. W. 356.

Where the general statute nullifies local speed regulations, a breach of such regulations may not be relied upon to establish negligence. Peck v. Ogilvie, 31 Quebec Super. Ct. 227, 8 Quebec Pr. 392.

⁸ Ex p. Snowden, 12 Cal. App. 521, 107 Pac. 727, wherein the court said: "It would seem not unreasonable to say that, where the state legislature, after a careful consideration of the subject, has declared that fifteen miles per hour is a proper maximum for speed in an incorporated city, and a municipality has extended this limit to twenty miles per hour, the person who drives his machine through the streets of a city at a rate in excess of thirty miles per hour is guilty of wantonly defying all law and restraint."

⁹ Driving at a rate prohibited by law is evidence of negligence, and it may be so charged by the trial judge. Reading the statute to the jury, therefore, in no way constitutes legal error and is not prejudicial to the rights of a defendant upon the trial. People v. Scanlon, 132 App. Div. 528, 117 N. Y. Supp. 57.

¹ Thies v. Thomas, 77 N. Y. Supp. 276.

By statute in at least one jurisdiction, proof that at the time of an accident an automobile was being operated at a prohibited rate of speed is made *prima facie* evidence of negligence.³ This act is not unconstitutional as being special legislation in that it confers upon persons who have been injured by automobiles a peculiar advantage in the trial of a case to recover damages for the injury, by a rule of evidence not applicable where the injury is caused by other sorts of vehicles.⁴

§ 111. Speed as Subject for Expert Testimony.

A question as to the speed at which a motor vehicle was proceeding at a particular time does not call for the expression of an expert opinion,⁵ or, at least, the rate of speed at which such a vehicle was running is not a matter exclusively for the testimony of experts.⁶ If such were the case, it would be a matter of impossibility for those injured by the running of vehicles, either automobiles, street cars, or railroad cars, always to have experts at hand to show what

³ Proving that the vehicle was driven at a prohibited rate of speed makes a *prima facie* case of negligence under the statute on the part of any party chargeable with so driving the automobile. The plaintiff in the case is still left to show that such negligence was the proximate cause of the injury and that he was not guilty of contributory negligence. *Hartje v. Moxley*, 235 Ill. 167, 85 N. E. 216.

⁴ *Hartje v. Moxley*, 235 Ill. 164, 167, 85 N. E. 216.

An instruction in the language of the statute, that proof that the defendant's automobile was being operated at a greater speed than permitted by law makes out a *prima facie* case of negligence, is not erroneous. *Ward v. Meredith*, 122 Ill. App. 165, *affirmed* 220 Ill. 66, 77 N. E. 118.

And an instruction referring to the running of the automobile as "either by himself or his agent" is proper although the statute does not contain that expression. *Ward v. Meredith*, 220 Ill. 66, 77 N. E. 118.

⁵ *Porter v. Buckley*, 147 Fed. 140, 78 C. C. A. 138.

⁶ *State v. Watson*, 216 Mo. 433, 115 S. W. 1011.

rate of speed was being made, consequently a great injustice would be done to many persons who are negligently injured by vehicles of the character indicated running at an excessive rate of speed. The only reasonable practice is to permit witnesses who know what motor vehicles are and have seen them operated, to give their opinions as to the rate of speed at which a particular car was proceeding at the time of an accident.⁶

Mr. Justice Cooley said in a case involving the same point: "The motion of the train was to be compared to the motion of any other moving thing, with a view to obtaining the judgment of the witness as to its velocity. No question of science was involved beyond what would have been had the passing object been a man or a horse. It was not, therefore, a question for experts. Any intelligent man, who had been accustomed to observe moving objects, would be able to express an opinion of some value upon it the first time he saw a train in motion. The opinion might not be so accurate and reliable as that of one who had been accustomed to observe, with timepiece in hand, the motion of an object of such size and momentum; but this would only go to the weight of the testimony and not to its admissibility. Any man possessing a knowledge of time and of distances would be competent to express an opinion upon the subject."⁷ A similar opinion was expressed where the plaintiff, whose horse was frightened by defendant's automobile, was permitted, as well as another occupant of the vehicle, to testify as to the speed at which the car approached, the court saying: "They were not called as expert witnesses, nor did they attempt to give to the jury conclusions

⁶ State v. Watson, 216 Mo. 433, 115 S. W. 1011.

⁷ Detroit, etc., R. Co. v. Van Steinburg, 17 Mich. 104, quoted with approval in Porter v. Buckley, 147 Fed. 140, 78 C. C. A. 138.

which could properly be drawn only from special knowledge they were not shown to possess. They were eyewitnesses of a fact, and they but undertook to convey to the jury the picture, made on their minds at the time, of something transpiring before their eyes."⁸

§ 112. Personal Qualifications of Witnesses Testifying to Speed.

Generally speaking, then, any eyewitness may testify to the speed at which an automobile was moving at a given time.⁹ An adult person of reasonable intelligence and ordinary experience in life who just before an accident observed the passing automobile, the rapid speed of which is claimed to have caused the accident, is, as a rule, presumably capable without proof of further qualification, to express an opinion as to how fast such automobile was going.¹ And, it seems, slight evidence of competency is sufficient in any case.² A motorman of a street car, who has had some twelve years experience at his business, and who has been accustomed to noticing the speed of vehicles on the street, is competent to testify as to the speed at which an automobile was proceeding.³

The weight to be attached to the opinion of a witness as to the speed at which a motor vehicle was moving is a question for the jury.⁴

⁸ *Shaffer v. Coleman*, 35 Pa. Super. Ct. 386.

⁹ *Himmelwright v. Baker*, 82 Kan. 569, 109 Pac. 178; *Shaffer v. Coleman*, 35 Pa. Super. Ct. 386. See also *Zoltovski v. Gzella*, 159 Mich. 620, 124 N. W. 527, 26 L.R.A.(N.S.) 435, 134 Am. St. Rep. 752.

¹ *Wolfe v. Ives*, (Conn.) 76 Atl. 526, 19 Ann. Cas.

² *Neidy v. Littlejohn*, (Ia.) 125 N. W. 198, 199.

³ *Hough v. St. Louis Car Co.*, (Mo.) 123 S. W. 83.

⁴ *Porter v. Buckley*, 147 Fed. 142, 78 C. C. A. 138, so holding of the testimony of a witness, who said that she had witnessed horse

§ 113. Opportunity of Witnesses for Observation.

Of course a witness, in order to be competent to express an opinion as to the speed at which a motor vehicle was being operated, must have been in such a position as to have a reasonable opportunity to judge of the speed of the car.⁵ The occupant of a vehicle which an automobile was approaching is qualified to testify as to its speed,⁶ if he perceived it at some distance,⁷ but not if he saw the vehicle only when it was close at hand.⁸

racers, and on several occasions had timed express trains and "had never seen anything go so fast as the defendant's automobile, and that she should judge it was going at the rate of forty or fifty miles an hour as the express goes through town;" *Himmelwright v. Baker*, 82 Kan. 570, 109 Pac. 178; *State v. Watson*, 216 Mo. 433, 115 S. W. 1011.

⁵ *Matla v. Rapid Motor Vehicle Co.*, 160 Mich. 639, 125 N. W. 709, *distinguishing* *Wright v. Crane*, 142 Mich. 510, 106 N. W. 71.

⁶ *Neidy v. Littlejohn*, (Ia.) 125 N. W. 198, 199; *Matla v. Rapid Motor Vehicle Co.*, 160 Mich. 639, 125 N. W. 709.

⁷ *Matla v. Rapid Motor Vehicle Co.*, 160 Mich. 639, 125 N. W. 709. In this case the court said: "The plaintiff testified that he had witnessed automobiles go by his place frequently, had seen them driven frequently, and that he had ridden in automobiles. He had the opportunity to see this automobile approaching for some distance, and he expressed the opinion that it was going at a very much higher rate of speed than ten miles an hour, and we think this testimony was competent. The case is easily distinguishable from *Wright v. Crane*, 142 Mich. 510, 106 N. W. 71. In that case the automobile was not seen by the plaintiff until it was within twenty feet of where the plaintiff stood, coming directly towards him. It was said in that case that the witness was not in a position to estimate the speed of the vehicle. In the present case, the plaintiff had much better opportunity, in fact ample opportunity, to judge of the rate of speed of this motor car."

⁸ *Wright v. Crane*, 142 Mich. 508, 106 N. W. 71 (witness did not see automobile approaching directly toward him in the nighttime until it was twenty feet distant). But see *Himmelwright v. Baker*, 82 Kan. 570, 109 Pac. 178 (testimony of a pedestrian who saw the car at a distance of fifteen feet before it struck him).

§ 114. Failure to Comply with License or Registration Requirements.

The decisions establish that by the operation of a motor car in violation of a statute forbidding the use of automobiles unless license or registration requirements have been complied with, the operator is guilty of negligence rendering him liable for an injury resulting from such misconduct,⁹ and the fact that a license has been applied for, or the required affidavit has been made, does not vary the rule.¹ Moreover it is held that such operator is not entitled to recover for injuries sustained by him by reason of the ordinary negligence of others rightfully using the highway. In reaching this conclusion the Massachusetts court said: "The act before us . . . expressly ordains that 'except as otherwise provided herein no automobile or motorcycle shall . . . be operated upon any public highway . . . unless registered as above provided. This provision, in addition to the penalties fixed for any operation of unregistered machines, forbids their being operated upon the highway at all. We cannot avoid the conclusion that it was intended to safeguard persons who were lawfully using the highways from the serious risks of injury by machines of this character which were operated in defiance of the law, and the owners of which furnished no means by which they could be identified and compelled to make proper compensation for the injuries which by their violation of law or by their mere negligence they might cause to other travelers. The legislature, in the opinion of a majority of the court, intended to outlaw unregistered machines, and to give them, as to persons lawfully using the highways, no other right than that of being exempt from reckless, wan-

⁹ *Cecchi v. Lindsay*, (Del.) 75 Atl. 378.

¹ *Cecchi v. Lindsay*, (Del.) 75 Atl. 378.

ton, or wilful injury.”² Whether such an interpretation of the statutes will be adopted by other courts may well be doubted. The rule is an extremely harsh one, and does not consider adequately, it is believed, the lack of causal connection between the failure to comply with the law and the happening of the accident. That an operator who fails to comply with the law should be punished is plain, but should not the punishment be confined to the penalties prescribed by the statute?

§ 115. Towing Disabled Cars.

When a motor vehicle loses its motive power it must be moved by the application of some outside power, which usually is accomplished by attaching it to another vehicle and towing it to the garage. This being the case, the use of a rope to tow a disabled automobile through a city street is not negligence. In one of the cases it appeared that the plaintiff, while attempting to cross a city street, tripped over a rope used by an automobile to tow another machine which was disabled. At the time of the accident the vehicles were stationary by order of a police officer in charge of traffic. While the plaintiff testified that she did not see the rope, she admitted that there was sufficient light so that she read the number of the machine, and there was evidence upon the part of the defendant that as the plaintiff attempted to pass between the vehicles she was warned by one of the drivers. The court held that a judgment for the plaintiff should be reversed.³ In another case it appeared that the defendant was steering a disabled automobile which was being hauled by another automobile by means of a rope

² *Dudley v. Northampton St. R. Co.*, 202 Mass. 447, 89 N. E. 25, 23 L.R.A.(N.S.) 561.

³ *Canfield v. New York Transp. Co.*, 128 App. Div. 450, 112 N. Y. Supp. 854.

about ten feet long. A blockade in traffic stopped the two machines and the rope rested on the pavement, and while in this position the defendant gave the female plaintiff permission to pass between the two machines. She claimed that as she started to do so the front machine moved forward about a foot, which raised the rope and tripped her. In an action to recover for the injuries received the court held that the defendant could not be charged with negligence in failing to warn the chauffeur of the forward machine that the plaintiff was about to pass, where no facts were shown which could have led the defendant to anticipate that the forward machine would be moved; and that the chauffeur was not negligent in so moving the machine when he was ignorant that such a movement would be likely to injure any one.⁴

§ 116. Skidding.

An accident resulting from the tendency of motor vehicles, however well constructed and designed, to skid, is not of itself any evidence of negligence.⁵

§ 117. Contributory Negligence.

According to the rule of the common law a person who has sustained injury by reason of the negligence of another is not entitled to recover damages therefor if he himself was guilty of negligence contributing to the injury. This rule, of course, applies to causes arising from the opera-

⁴ *Titus v. Tangeman*, 116 App. Div. 487, 101 N. Y. Supp. 1000.

⁵ *Wing v. London Gen. Omnibus Co.*, [1909] 2 K. B. (Eng.) 652, 78 L. J. K. B. 1063, 101 L. T. N. S. 411, 73 J. P. 429, 7 Local Gov. Rep. 1093, 53 Sol. J. 713, 25 Times L. Rep. 729. See also *Parker v. London Gen. Omnibus Co.*, 100 L. T. N. S. (Eng.) 409, 73 J. P. 283, 25 Times L. Rep. 429, *affirmed* 101 L. T. N. S. 623, 7 Local Gov. Rep. 1111, 53 Sol. J. 867.

tion of motor vehicles and bars a recovery by an individual claiming damages from the owner or driver of a motor car,⁶ or by a motorist demanding compensation for injury done to him by another person.⁷

§ 118. Last Chance Doctrine.

The plaintiff, however, is entitled to recover, notwithstanding negligence on his part, if it was the negligence of the defendants alone that was the proximate or immediate cause of the accident. In other words, if, notwithstanding any previous negligence of the plaintiff, the defendant could have prevented the accident by the exercise of reasonable care, the want of such care makes the defendant liable.⁸ Thus, if the driver of an automobile fails to look ahead, he is liable for injury to a person whom he collides with, although such person himself was negligent, if by looking he could have prevented the accident notwithstanding the negligence of the person injured.⁹ But if the pleadings do not warrant an instruction on the last chance doctrine such an instruction is erroneous.¹

§ 119. Functions of Court and Jury.

In an action at law arising from a collision which has occurred upon the highway, the question whether either of the actors therein was negligent is ordinarily a question of fact for the jury.² In numerous cases the evidence has

⁶ *Simeone v. Lindsay*, 6 Penn. (Del.) 224, 227, 65 Atl. 778; *Merklinger v. Lambert*, 76 N. J. L. 806, 72 Atl. 119; *McCormick v. Hesser*, 77 N. J. L. 173, 71 Atl. 55.

⁷ *Wiggers v. Cincinnati Traction Co.*, 17 Ohio Dec. 798.

⁸ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 378.

⁹ *Burvant v. Wolfe*, (La.) 52 So. 1025.

¹ *Wiggers v. Cincinnati Traction Co.*, 17 Ohio Dec. 798.

² *Rogers v. Phillips*, (Mass.) 92 N. E. 327.

been held not to present a question of law to be determined by the judge in a nonsuit or directed verdict, but to present a question of fact to be submitted to the jury under proper instructions.³ On conflicting evidence or where more than one inference fairly can be drawn from the facts, the question whether the defendant was guilty of negligence or the plaintiff was guilty of contributory negligence is one for the jury's determination under appropriate instructions from the court.⁴ If the variance between the testimony of plaintiff and defendant as to the responsible and contributing cause of the collision is acute, it is peculiarly within the province of the jury to settle this disputed issue of fact.⁵

³ See cases cited *passim*.

⁴ Porter v. Buckley, 147 Fed. 140, 78 C. C. A. 138; Neidy v. Littlejohn, (Ia.) 125 N. W. 198, 200; Shamp v. Lambert, 142 Mo. App. 567, 121 S. W. 773, 774.

⁵ McGee v. Young, 132 Ga. 607, 64 S. E. 689.

CHAPTER VII.

MUTUAL RIGHTS AND DUTIES OF OPERATORS OF MOTOR VEHICLES, AND OTHERS, ON HIGHWAY (continued).

Drivers of Horses.

- § 120. Tendency of Motor Vehicles to Frighten Horses.
- 121. Duty to Exercise Care to Prevent Frightening of Horses.
- 122. Duty of Obeying Law in This Respect.
- 123. Looking Out for Horses.
- 124. Looking for Manifestations of Fright.
- 125. Liability for Frightening Horse in Absence of Negligence.
- 126. Inference from Horse Becoming Frightened.
- 127. Fright Produced by Appearance of Vehicle.
- 128. Fright Produced by Noise of Mechanism.
- 129. Fright Produced by Movement of Vehicle—Speed.
- 130. Fright Produced by Proximity of Vehicle to Horse.
- 131. Action Necessitated by Appearance of Fright Generally.
- 132. Slowing and Stopping Vehicle.
- 133. Derivation of Obligation to Stop.
- 134. Signal to Stop.
- 135. Inference from Failure to Stop.
- 136. Stopping Noise of Vehicle.
- 137. Character of Horse Frightened.
- 138. Duty of Driver of Horse to Turn Out upon Receiving Signal.
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- 140. Duty to Give Signal to Stop Motor Vehicle.
- 141. Leaving Horse Unattended.
- 142. Bringing Horse Near Vehicle Producing Fright.
- 143. Functions of Court and Jury in Actions for Injuries Caused by Frightened Horses.
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Collision.

- 145. Liability of Drivers of Motor Vehicles Generally.
- 146. Allegations of Negligence on Part of Driver of Motor Vehicle.
- 147. Inference from Disobedience of Law.
- 148. Duty upon Appearance of Danger of Collision.

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- 150. Functions of Court and Jury in Actions against Operators of Motor Vehicles.
- 151. Liability of Drivers of Horses for Injury Caused by Collision.

Drivers of Horses.

§ 120. Tendency of Motor Vehicles to Frighten Horses.

Automobiles undeniably tend to frighten horses¹ which are unaccustomed to them,² by reason of their appearance,³

¹ *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764; *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671; *Hall v. Compton*, 130 Mo. App. 675, 108 S. W. 1122; *Murphy v. Wait*, 102 App. Div. 121, 92 N. Y. Supp. 253; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1; *Spangler v. Markley*, 39 Pa. Super. Ct. 351; *Gillam v. Hogue*, 39 Pa. Super. Ct. 550; *Lubier v. Michaud*, 38 Quebec Super. Ct. 190. See also *Frisbie v. Columbus*, 80 Ohio St. 686, 89 N. E. 92.

Traction engines are calculated to frighten horses. *New Albany v. Stier*, 34 Ind. App. 619, 72 N. E. 275.

The statute regulating the speed of motor vehicles recognizes the liability of horses to become frightened at their approach, and the need and duty of operating them with skill and care in view of such conditions likely to arise. *Brinkman v. Pacholke*, 41 Ind. App. 662, 84 N. E. 762.

Speaking of the probability that a horse with defective eyesight will take fright at a steam roller, the court in *Phelan v. Granite Bituminous Paving Co.*, 227 Mo. 666, 127 S. W. 318, 328, said: "A horse blind of one eye, and seeing but dimly with the other, sees all he does see abnormally and out of true proportion; therefore he is disturbed more easily than one with good eyes."

² *Com. v. Kingsbury*, 199 Mass. 544, 85 N. E. 848, 127 Am. St. Rep. 513. "Most horses are now accustomed to the sight and sounds of automobiles, and pay but little attention to them." *National Casket Co. v. Powar*, 137 Ky. 156, 125 S. W. 282. "Automobiles are constantly driven along streets past horses without frightening them." *O'Donnell v. O'Neill*, 130 Mo. App. 360, 109 S. W. 815.

³ *Com. v. Kingsbury*, 199 Mass. 544, 85 N. E. 848, 127 Am. St. Rep. 513; *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671; *Radnor Tp. v. Bell*, 27 Pa. Super. Ct. 1.

speed,⁴ and noise,⁵ as well as by the acrid and disagreeable odor attending the operation of cars using gasoline.⁶ The operators of motor vehicles are bound to consider this tendency of their vehicles to frighten horses,⁷ especially in localities where motor cars are so little used as to be strange objects to horses.⁸ And the fact that horses unaccustomed to see automobiles are likely to be frightened by their unusual sound and appearance is an element in the

⁴ *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764; *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671. A motor vehicle in operation is a much more formidable looking object, and is far more likely to frighten horses, than when it is at rest. *Keeley v. Shanley*, 140 Pa. St. 222, 21 Atl. 305, 27 W. N. C. 363. "There is a certain whir and swish accompanying the rapid passing of an automobile which is terrifying to a horse unaccustomed to it, especially when it passes in close proximity to it." *Grant v. Armstrong*, 55 Wash. 365, 104 Pac. 632.

⁵ *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764; *State v. Swagerty*, 203 Mo. 517, 102 S. W. 483, 11 Ann. Cas. 725, 10 L.R.A.(N.S.) 601, 120 Am. St. Rep. 671; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁶ *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764; *Emerson Troy Granite Co. v. Pearson*, 74 N. H. 22, 64 Atl. 582.

⁷ *Haynes Automobile Co. v. Sinnett*, (Ind.) 91 N. E. 172; *House v. Cramer*, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A.(N.S.) 655; *McDonald v. Yoder*, 80 Kan. 25, 28, 101 Pac. 468; *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764; *Tudor v. Bowen*, 152 N. C. 441, 67 S. E. 1015, *citing* 13 Ann. Cas. 463, note; *Kirk v. Toronto*, 8 Ont. L. Rep. 730, 4 Ont. W. Rep. 496, 25 Can. L. T. 29 (steam roller).

The operator of a motor cycle upon the streets of a city, however, is not required to anticipate that a horse will be frightened at his cycle. *Long v. Warlick*, 148 N. C. 32, 61 S. E. 617.

⁸ *McDonald v. Yoder*, 80 Kan. 25, 28, 101 Pac. 468. It is incumbent upon a person driving an automobile along a highway to take notice that motor cars are, as yet, usually strange objects to horses and are likely to startle the animals when driven up in front of them at a rapid rate. *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359.

question of due care on the part of the drivers both of horses and of motor cars, and a consideration to be entertained in determining whether such care has been exercised to avoid accident and injury in the exigencies of the particular situation.⁹

§ 121. Duty to Exercise Care to Prevent Frightening of Horses.

It is incumbent upon a person operating a motor vehicle to exercise reasonable care not to frighten horses.¹ It has been said that if the operator of an automobile knows, or by the exercise of ordinary care may know, that the movement or noise of his machine will render an animal unmanageable, "he must use all the care and caution which a careful and prudent driver should exercise under the same circumstances."² And it has been held that drivers of automobiles must exercise every reasonable precaution commensurate with the apparent danger to prevent the frightening of horses and to insure the safety of any person riding or driving the same.³ Seeing a horse-drawn vehicle

⁹ Towle v. Morse, 103 Me. 250, 68 Atl. 1044.

¹ Haynes Automobile Co. v. Sinnett, (Ind.) 91 N. E. 171, 172; McDonald v. Yoder, 80 Kan. 25, 28, 101 Pac. 468; O'Donnell v. O'Neill, 130 Mo. App. 360, 109 S. W. 815.

Duty Imposed by Statute.—Matla v. Rapid Motor Vehicle Co., 160 Mich. 639, 125 N. W. 709; Murphy v. Wait, 102 App. Div. 121, 92 N. Y. Supp. 253.

Tendency of Cars to Frighten Horses.—It has been said: "Since automobiles have come into use on our streets and highways, it has been the experience of all that they tend to frighten some horses, and it is the duty of a person operating such a machine, in order to avoid accidents when a horse does become frightened, to exercise reasonable care." Spangler v. Markley, 39 Pa. Super. Ct. 351. And see *supra*, § 120.

² Spangler v. Markley, 39 Pa. Super. Ct. 351.

³ McDonald v. Yoder, 80 Kan. 25, 101 Pac. 468.

in a position of danger requires the exercise of greater care.⁴

§ 122. Duty of Obeying Law in This Respect.

Of course the operator of a motor vehicle is bound to comply with statutes prescribing precautions to be taken to prevent the frightening of horses.⁵ A failure to sound the horn, or other similar contrivance to signal the approach of the car, is negligence *per se*, it has been held, if such failure is a violation of the statute; and if an injury is occasioned thereby, being a proximate result of such failure, the operator of the car is liable to respond in damages.⁶

⁴ Spangler v. Markley, 39 Pa. Super. Ct. 351. And see *supra*, §§ 95, 96.

⁵ *Instruction Disregarding Statute Erroneous.*—In Fletcher v. Dixon, 107 Md. 420, 68 Atl. 875, the court held that under a statute requiring the driver of a motor vehicle at the indication of a horse becoming alarmed to go to the side of the road and remain stationary until the horse or other animal has passed to a safe distance, in the meantime making as little noise as possible with the steam, the trial court's refusal to instruct the jury "that the owner of an automobile has the same right as the owner of other vehicles to use the highways or streets of a city, and, like them, he must exercise reasonable care and caution for the safety of others," was proper, because while the owner of an automobile, like the owners of other vehicles, has the right to use the highways, not only must he exercise reasonable care and caution for the safety of others, but he must do what the statute requires when the conditions therein referred to arise.

Inference from Failure to Stop after Accident.—A disregard by the driver of an automobile of the law and of the safety of the occupants of a horse-drawn vehicle "is evidenced by the fact that notwithstanding the buggy was upset by the frightened horse and the occupants of it thrown out, appellant continued on his course without stopping to investigate or inquire whether any injury to those in the buggy had been caused by the accident." Ward v. Meredith, 122 Ill. App. 159, affirmed 220 Ill. 66, 77 N. E. 118.

⁶ National Casket Co. v. Powar, 137 Ky. 156, 125 S. W. 279, 281. As to whether a violation of statute is negligence see *supra*, § 99.

§ 123. Looking Out for Horses.

In order to prevent the frightening of horses it is the duty of the operator of a motor vehicle to keep a lookout for such animals,⁷ whether going in the same direction as his car or in the opposite direction.⁸ Likewise, in starting the motor of an automobile its operator is bound to keep a watchful eye on horses which may be close at hand.⁹ If the motor of a car is of the internal combustion type, the operator either should give notice of his intention of starting to any drivers of horses who may be passing in close proximity to the car, or he should not crank the motor until the animals have passed to a safe distance.¹ Under the statute requiring persons driving automobiles to exercise care to prevent the frightening of horses it is the duty of one in charge of an automobile, driving upon a public street or highway, to look ahead and see all persons and horses in his line of vision, and in case of accident he will be conclusively presumed to have seen what he should and could have seen in the proper performance of such duty.²

⁷ Horak v. Dougherty, (Ia.) 114 N. W. 883; McDonald v. Yoder, 80 Kan. 25, 28, 101 Pac. 468; Grant v. Armstrong, 55 Wash. 365, 104 Pac. 632.

⁸ McDonald v. Yoder, 80 Kan. 28, 101 Pac. 468.

"Approaching" Horse-drawn Vehicle.—An automobile coming up behind a vehicle drawn by horses is "approaching" such vehicle within the meaning of a statutory requirement that the driver of an automobile or motorcycle "approaching any vehicle drawn by a horse or horses" shall "operate, manage, and control such automobile or motorcycle in such manner as to exercise every reasonable precaution to prevent the frightening of such horse or horses, and to insure the safety and protection of any person riding or driving same." Gifford v. Jennings, 190 Mass. 54, 76 N. E. 233; Trombley v. Stevens-Duryea Co., 206 Mass. 516, 92 N. E. 764.

⁹ Tudor v. Bowen, 152 N. C. 441, 67 S. E. 1015.

¹ Fisher v. McGrath, (Minn.) 128 N. W. 580.

² McDonald v. Yoder, 80 Kan. 25, 101 Pac. 468.

In the absence of statute no duty rests upon the owner of a traction engine to send a person ahead to warn and assist drivers of horses.³ And a statute imposing this duty will be construed strictly.⁴ But a failure to comply with this requirement is negligence authorizing a recovery by a person whose horse has become frightened.⁵ However, if the driver of a horse which became frightened saw the motor vehicle at a distance, the fact that a person was not sent ahead to warn travelers is wholly unimportant and immaterial, since the failure to obey the statute is not the proximate cause of the horse taking fright.⁶

§ 124. Looking for Manifestations of Fright.

Moreover the operator of a car is bound to exercise care to discover manifestations of fright on the part of horses drawing vehicles, which may be encountered upon the highway.⁷ Under the statute requiring an automobile to stop whenever it shall appear that a horse is about to become frightened, the operator of such vehicle must use reasonable care to discover the fact that an animal is frightened, and he cannot shut his eyes and avoid liability.⁸ And it is no justification for the failure of the driver of an automobile to look ahead and observe the fright of horses draw-

³ *Macomber v. Nichols*, 34 Mich. 212, 22 Am. Rep. 522.

⁴ *Burke v. Mally*, 141 Ia. 555, 120 N. W. 305, (holding that the act does not apply where a traction engine is being operated upon a road that is not public but merely used permissively).

⁵ *Buchanan v. Cranford Co.*, 112 App. Div. 278, 98 N. Y. Supp. 378 (steam roller); *Mullen v. Glens Falls*, 11 App. Div. 275, 42 N. Y. Supp. 113. But where the plaintiff's horses were standing motionless by the side of the road, the statute is inapplicable, it seems. *Cudd v. Larson*, 117 Wis. 103, 93 N. W. 810.

⁶ *Haller v. St. Louis*, 176 Mo. 606, 75 S. W. 613 (steam roller).

⁷ *Shinkle v. McCullough*, 116 Ky. 960, 77 S. W. 196, 105 Am. St. Rep. 249.

⁸ *Ward v. Meredith*, 220 Ill. 66, 77 N. E. 118.

ing an approaching carriage, that it is necessary for him to keep his eyes and attention fixed on the track of the road to enable him to guide the car past the carriage safely and to avoid ruts, holes, and other obstacles.⁹

§ 125. Liability for Frightening Horse in Absence of Negligence.

But the mere fact that a horse becomes frightened by a motor vehicle upon the highway ordinarily does not render the operator of such vehicle liable for resulting injury. The horse has no paramount or exclusive right to the road, and the mere fact that a horse takes fright at some vehicle run by new and improved methods, and smashes things, does not give the injured party a cause of action.¹ Hence if, as an automobile is approaching a horse-drawn vehicle at a moderate speed the driver of the automobile is given no signal by the driver of the horse, and sees nothing whatever in the conduct of the horse or its driver to indicate that the horse is likely to be frightened by the passing of the automobile, the fact that when the automobile reaches a point opposite the horse the animal becomes frightened and causes injury affords, as a matter of law, no ground for

⁹ McIntyre v. Orner, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A. (N.S.) 1130, 117 Am. St. Rep. 359.

¹ Nason v. West, 31 Misc. 583, 65 N. Y. Supp. 651; Silberman v. Hugette, 22 Mont. Co. Rep. (Pa.) 39. So there is no liability for injury caused by a horse becoming frightened by a steam street roller. McMulkin v. Chicago, 92 Ill. App. 331; Sparr v. St. Louis, 4 Mo. App. 573; Rector v. Syracuse Rapid Transit R. Co., 66 App. Div. 395, 72 N. Y. Supp. 745. Compare Halstead v. Warsaw, 43 App. Div. 39, 59 N. Y. Supp. 518.

Where a horse dies from a rupture of the heart caused by fright produced by the negligent operation of a steam street roller, the owner is not entitled to recover, because in the absence of physical injury the death of the animal in such a manner will not be deemed to be the proximate result of the defendant's negligence. Lee v. Burlington, 113 Ia. 356, 85 N. W. 618, 86 Am. St. Rep. 379.

an action for damages.² In a case of this character the court said: "If defendant, as he claims, ran the automobile at a moderate rate of speed, turned to the right of the centre of the road to afford plaintiff a sufficient passageway and, while keeping a proper lookout, observed no appearance of fright in the approaching horse, he had the right to proceed; and if the horse suddenly and unexpectedly became unruly at a time when defendant, in the exercise of reasonable care, could not avoid the resultant injury by stopping his machine, the injury should be regarded as an accident for which defendant should not be called to account."³ Where the operator of an automobile produced no unusual

² Hall v. Compton, 130 Mo. App. 675, 108 S. W. 1122; Davis v. Maxwell, 108 App. Div. 128, 96 N. Y. Supp. 45; Baugher v. Harman, 110 Va. 316, 66 S. E. 86.

³ Hall v. Compton, 130 Mo. App. 675, 108 S. W. 1122. A similar view is expressed in Simmons v. Lewis, (Ia.) 125 N. W. 195. The court in this case said: "We are unable to see anything in this record which would justify a finding of negligence. The automobile was being operated at a low rate of speed, little if any greater at the time of the accident than that of the teams moving in front of it. The noise produced was greater than that of an automobile running on high gear, but not greater than that usually produced by a one-cylinder car running at low gear. There was nothing in the appearance of the automobile specially calculated to frighten horses. It was like ordinary automobiles in its appearance. No warning had been given that the Krause team was frightened or likely to be frightened by the approach of the machine. There is no evidence that the operator of the machine had any reason to suppose from the appearance of the Krause team that it was likely to become frightened and uncontrollable on the near approach of the machine. After the horses manifested fright, nothing could have been done by the operator of the machine to avoid the accident, for it happened instantly, and the horses were in a few seconds free from the vehicle and dashing along the street."

The operator of a motor cycle is not liable for injuries caused by frightening a horse, if the horse gave no indications of fright until the cyclist reached a point opposite the animal. Long v. Warlick, 148 N. C. 32, 61 S. E. 617.

noise in running the machine and, on first discovering that a horse drawing a vehicle was about to become frightened, stopped his car and ran it backward to prevent frightening the horse, it was held that he was not liable to the driver of the horse for damage caused by its fright and running away.⁴

§ 126. Inference from Horse Becoming Frightened.

The frightening of a horse driven or ridden along a public highway caused by encountering a motor vehicle, of itself, does not raise any inference of negligence on the part of the operator of the vehicle.⁵ The fact that a steam street roller may frighten ordinarily gentle horses does not tend to prove negligence on the part of the municipality in using the roller.⁶

§ 127. Fright Produced by Appearance of Vehicle.

There can be no recovery for injury caused by a horse becoming frightened at the mere appearance of a motor vehicle⁷ which is not of unusual construction.⁸ If a per-

⁴ O'Donnell v. O'Neill, 130 Mo. App. 360, 109 S. W. 815.

⁵ Hall v. Compton, 130 Mo. App. 675, 108 S. W. 1122; Davis v. Maxwell, 108 App. Div. 128, 96 N. Y. Supp. 45.

⁶ McMulkin v. Chicago, 92 Ill. App. 333.

⁷ O'Donnell v. O'Neill, 130 Mo. App. 360, 109 S. W. 815; Eichman v. Buchheit, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435. See also Simmons v. Lewis, (Ia.) 125 N. W. 195. This is true in case of fright produced by a traction engine left standing in the highway. Davis v. Thornburg, 149 N. C. 233, 62 S. E. 1088.

⁸ O'Donnell v. O'Neill, 130 Mo. App. 360, 109 S. W. 815. A runaway caused by a horse taking fright at a steam motor carriage, with pneumatic tires, slowly approaching him, the carriage not differing in construction from ordinary motor carriages except that it had a smoke-stack, which emitted only the usual amount of vapor, affords no cause of action to the owner of the horse for damages caused by the accident. Nason v. West, 31 Misc. 583, 65 N. Y. Supp. 651.

In an early case concerning fright caused by a traction engine the court held that the plaintiff was entitled to a verdict "if the

son were to drive along one of our city streets with a four-ox team and wagon of the prairie-schooner variety, it possibly would cause some uneasiness in horses unused to such sights. Yet, can it be said that an action would arise if a runaway should result, provided due care were shown not to interfere unnecessarily with the use of the highway? The opinion has been expressed that no right of action would accrue. Horses may take fright at conveyances that have become obsolete as well as at those that are novel; but this is one of the dangers incident to the driving of horses, and the fact cannot be interposed as a barrier to retrogression or progress in the method of locomotion. Bicycles used to frighten horses, but no right of action was deemed to accrue. Electric street cars have caused many runaways. Automobiles operated without steam, by storage batteries or by gasoline explosive engines running at a moderate speed, may cause fright to horses unused to them, yet the horses must get used to them or the driver take his chances.⁹

So if a person attempts to drive past a motor vehicle which is standing at the side of the road, relying upon his ability to control his horse, he is not entitled to recover for injury caused by the animal becoming frightened.¹ He should either turn back and take another road, or get out of his vehicle and take the horse by the head.² In an action

engine was calculated by its noise and appearance to frighten horses, so as to make the use of the highway dangerous to persons riding or driving horses," and if the defendant knew of the danger. *Watkins v. Reddin*, 2 F. & F. (Eng.) 629.

⁹ *Nason v. West*, 31 Misc. 583, 65 N. Y. Supp. 651.

¹ *Cumberland Telephone etc., Co., v. Yeiser*, (Ky.) 131 S. W. 1049.

² *Keeley v. Shanley*, 140 Pa. St. 213, 21 Atl. 305, 27 W. N. C. 363, so holding in respect of a steam roller. See also *McMulkin v. Chicago*, 92 Ill. App. 331.

for injuries caused by a horse becoming frightened by a motor car it appeared that the driver of the car drew it up at the side of the road, leaving ample room for traffic to pass, stopped the engine, and left the car there unattended while he paid a visit of fifteen minutes to a house near by. While he was away the horse of a passing vehicle shied at the motor car, and escaped from control, resulting in damage to the vehicle and the horse. The court held that the accident did not result from the car being left unattended, but through the shying of the horse and the inability of the driver to control it, and that the defendant was not liable.³

³ *Macfarlane v. Colam*, [1908] Sc. Ct. Sess. 56. A somewhat different view was expressed in *McIntyre v. Coate*, 19 Ont. L. Rep. 9, 16 Ann. Cas. 395. This was an action to recover damages for injuries to person and property, alleged to have resulted from negligence. The evidence showed that the defendant, the owner of a bright red automobile, was driving to a certain village, intending to stop at a hotel there and have dinner. On arriving at the foot of a hill he found it impracticable to mount the same in his car, owing to the condition of the road, and so drew the car up at the side of the road, about two feet from the traveled part, and locked it as required by the Ontario Motor Vehicles Act, and took the key with him, and went to the hotel, where he remained about three hours. While the car was in such position, the plaintiff drove down the hill, and when he was about twenty rods from the car his horse caught sight of it and showed signs of fright. The plaintiff, notwithstanding his horse's actions, drove him on about a rod, when he again showed fright. The plaintiff still urged him on, and when within a rod and a half of the car he showed an inclination to leave the road, and, on the plaintiff pulling him back, wheeled round and upset the carriage. There was also evidence that the car could have been driven to a yard of another hotel some six hundred feet away. The court held that the question of the defendant's negligence in unreasonably obstructing the highway was properly submitted to the jury, and, therefore, that a finding by the jury in the plaintiff's favor would not be disturbed.

§ 128. Fright Produced by Noise of Mechanism.⁴

A person operating a motor car is not liable for damage caused by a horse becoming frightened by the noise thereof,⁵ unless such noise is of an unusual character.⁶ If a particular motor vehicle is practicable for the purpose of travel, and the noise caused by its use is kept within reasonable limitations and is no greater than is fairly incident to the use of motor vehicles which are found to be adapted to the needs of the general public, then the owner cannot be held liable for fright attributable to such noise, in the absence of proof that the vehicle was operated negligently.⁷ In short, the noise usually produced by the motor vehicles in common use is not in itself negligence.⁸

⁴ For cases involving noise in conjunction with other matters, see notes *passim*.

⁵ See *Murphy v. Meacham*, 1 Ga. App. 157, 57 S. E. 1046; *Eichman v. Buchheit*, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435.

⁶ *Evidence of Noise of Particular Car Compared to Others.*—In an action based on the negligent operation of an automobile which frightened the plaintiff's horses, a witness may be allowed to testify that defendant's automobile made more noise than any he ever heard. *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 878, on subsequent appeal 77 Atl. 327. But there is no error in excluding testimony as to the comparative noises made by a car, of the make and type used by the defendant at the time of the accident, and other machines, although the witness testifies that he has made such comparisons, if there is no proof of the condition of the machines with which the comparisons were made. *Porter v. Buckley*, 147 Fed. 140, 78 C. C. A. 138.

⁷ *Nason v. West*, 31 Misc. 583, 65 N. Y. Supp. 651.

⁸ In *House v. Cramer*, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A. (N.S.) 655, the court said: "Of course noises incident to the operation of the machine are not, of themselves, negligent. Such is the holding with reference to the use of engines on railroads in cases cited by appellant. *Abbott v. Kalbus*, 74 Wis. 504, 43 N. W. 367. And by the same court this rule has been applied to motor cars. *Eichman v. Buchheit*, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435. But noises may be emitted from a railway engine under such circumstances as to render the company liable as for negligence.

However, if the noise produced by a motor vehicle is of an unusual character or is unnecessary, the owner may be liable for injury caused by a horse becoming frightened thereat.⁹ Likewise the owner of a motor vehicle may be liable if the noise of his car is continued after the fright of a horse has become apparent and the resulting damage is attributable to the continuation of the noise.¹ But where

Andrews v. Mason City, etc., R. Co., 77 Ia. 669, 42 N. W. 513; *Toledo, etc., R. Co., v. Harmon*, 47 Ill. 299, 95 Am. Dec. 489; *Cobb v. Columbia, etc., R. Co.*, 37 S. C. 194, 15 S. E. 878; *Alsever v. Minneapolis, etc., R. Co.*, 115 Ia. 338, 88 N. W. 841, 56 L.R.A. 748. The same is true with respect to automobiles. The noise attendant on the operation of the machine necessarily depends on its character, and somewhat on the power employed." And in *O'Donnell v. O'Neill*, 130 Mo. App. 360, 109 S. W. 815, the court said: "Automobiles are constantly driven along streets past horses without frightening them, and if the appearance and movement of a particular automobile and the noise incident to its operation are in no way unusual, it is not, *per se*, a wrongful act to operate it in proximity to a horse so long as the horse exhibits no fright." See, also, *Brown v. Thorne (Wash.)*, 111 Pac. 1047.

⁹ Unnecessary noises, that are terrifying to horses, made by a steam roller (as the sounding of a whistle or loud puffing), close to travelers on the highway, are actionable negligence. *Phelan v. Granite Bituminous Paving Co.*, 227 Mo. 666, 127 S. W. 329.

¹ See *infra*, § 136.

Instruction Regarding Noise When Not Pleaded.—In an action for injuries sustained by the plaintiff by reason of his horse having been frightened by the defendant's automobile, which it was alleged was running at an excessive speed, the defendant and another witness testified that the operation of the automobile was always accompanied by noise. The judge instructed that if the defendant was operating the automobile at a high rate of speed, and because thereof, or because of such speed together with the noise, the horse became frightened, and the defendant's conduct in operating the automobile at such speed was negligence, the plaintiff was entitled to recover. The court held that if there was any error in the instruction, in that it authorized the jury to find for the plaintiff if they believed that the horse became frightened either at the speed or the noise, while fright by the noise was not pleaded, it was not prejudicial. *Shinkle v. McCullough*, 116 Ky. 960, 77 S. W. 196, 105 Am. St. Rep. 249.

an operator of an automobile in stopping the car near horses anticipates starting again shortly, he is not negligent in allowing the explosions of the gasoline engine furnishing the motive power to continue, unless he sees that the explosions are frightening the animals or in the exercise of ordinary care ought to notice this fact, and by ordinary diligence might stop the explosions in time to avoid the running away of the horses.²

§ 129. Fright Produced by Movement of Vehicle—Speed.

Negligence, rendering the operator of a motor vehicle liable for injury resulting from a horse taking fright at his car cannot be predicated upon the movement of the car, when not unusual³ or continued after a horse has manifested fright.⁴ The converse of this proposition is true; excessive speed of a motor vehicle is negligence rendering the operator liable for injury due to a horse's becoming frightened thereat.⁵

² House v. Cramer, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A.(N.S.) 655.

³ See O'Donnell v. O'Neill, 130 Mo. App. 360, 109 S. W. 815.

⁴ See *infra*, § 131 *et seq.*

⁵ Smith v. Brenner, 12 Ont. W. Rep. 9, 1197. See also Corey v. Adams, 182 Mass. 250, 65 N. E. 69.

Exceeding Speed Limit.—It has been said: "It might well be that an automobile which was passing a team at the [statutory] rate of ten miles an hour would not scare it or cause it to run off, while one going at the rate of twenty-five miles an hour would." Grant v. Armstrong, 55 Wash. 365, 104 Pac. 632.

Sufficiency of Allegations of Complaint.—A complaint alleging that a team was frightened by the negligence of the driver of an automobile in blowing his whistle when directly opposite the team, while driving at a high rate of speed in violation of a city ordinance, in such a manner as to frighten the team, fairly includes the rate of excessive speed as a proximate cause of the accident. Grant v. Armstrong, 55 Wash. 365, 104 Pac. 632.

§ 130. Fright Produced by Proximity of Vehicle to Horse.

The driver of a motor vehicle may render himself liable by bringing his car into such close proximity to a horse as to cause it to become frightened, for example where the car is driven so as to pass close to the animal.⁶ Directing an automobile toward a horse is more apt to produce fright on the part of the animal than keeping the car on a course

Competency of Witness to Testify to Speed.—See *supra*, §§ 112, 113.

Inference from Immediate Stopping of Car.—That the defendant stopped almost instantly upon the horse's showing signs of restiveness, indicates that he was not proceeding at excessive speed. *Davis v. Maxwell*, 108 App. Div. 132, 96 N. Y. Supp. 45.

⁶ *Passing Close to Horse.*—In an action for damages caused by the plaintiff's horse becoming frightened at the defendant's automobile, there was evidence tending to show that the traveled portion of the highway was twenty-two feet in width at the point where the plaintiff was injured; that there were ditches on either side of the road; that the plaintiff had driven to the right as far as he could without going into the ditch on the east side; that the defendant as he approached the plaintiff turned his car from the right side of the road to the left; that he passed so closely to the plaintiff's carriage that there was but from one to two feet between the west wheel track of the carriage and the east wheel track of the car; that it had been raining, and the wheels of the automobile were splashing considerable water and slush from the wheel ruts in the road; and that there was nothing to prevent the defendant from keeping entirely to the right side of the centre of the road. The court, in holding that the evidence warranted the jury in finding that the defendant did not exercise ordinary care in the management of his automobile, said: "In view of such evidence, the jury might have concluded that, by turning the car to the left toward the horse and running so closely to the buggy that a collision was very narrowly averted, the wheels of the car at the same time splashing water toward if not on the horse, the latter became frightened when it would not have become so had the car been driven nearer to the west side of the road, and that the defendant was negligent in veering his car to the left and driving it as closely as he did to the horse and buggy. This court cannot say that such inferences might not properly have

that apparently will not result in a collision.⁷ But the fact that a person driving a motor vehicle does not give the driver of a horse-drawn vehicle the full half of the road to which the latter is entitled is not conclusive evidence of negligence.⁸

§ 131. Action Necessitated by Appearance of Fright Generally.

If the driver of a motor vehicle sees, or by the exercise of reasonable caution can see,⁹ that a horse or horses of other persons upon the highway are becoming restive or frightened, it is his duty to do whatever reasonably is required to relieve such persons in peril.¹ The statutes,

been drawn by the jury from the evidence, and we conclude that the findings of negligence and proximate cause should stand." *Pfeiffer v. Radke*, 142 Wis. 512, 125 N. W. 934. See also *Delfs v. Dunshee*, 143 Ia. 381, 122 N. W. 240.

⁷ In *Pfeiffer v. Radke*, 142 Wis. 512, 125 N. W. 934, referred to in the next preceding note, the court said: "It would seem reasonable enough that if the car was to the west side of the road until it approached the horse, and was then turned toward it, such action was calculated to scare the animal, and made it more liable to become frightened than if the car had continued in a straight course." Similarly in an action for damages caused by the frightening of the plaintiff's horse by an automobile, it has been held that the evidence sustains a judgment for the plaintiff where it appears that the latter was driving down the right-hand side of the street; that the automobile came around a corner several hundred feet away without slackening its speed, crossed over to the wrong side of the street and proceeded toward the plaintiff while the chauffeur was looking back toward the occupants of the car until the automobile was about one hundred feet away; and that the car came within about ten feet of the plaintiff when his horse shied and ran away. *Hannan v. St. Clair*, 44 Colo. 134, 96 Pac. 822. See also *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 878.

⁸ *Needy v. Littlejohn*, 137 Ia. 704, 115 N. W. 483.

⁹ See *supra*, § 121.

¹ *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087,

while elaborately providing for what shall be done under certain circumstances, do not abrogate the common-law rule whereby every traveler is bound to use care to avoid inflicting an injury; consequently the driver of a motor vehicle is not relieved from taking such other and further precautions as the dictates of ordinary prudence may demand.³

§ 132. Slowing and Stopping Vehicle.

The driver must reduce the speed of his vehicle⁴ or stop it⁴ if he sees that this is necessary to avoid an acci-

⁴ L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359; *Tudor v. Bowen*, 152 N. C. 441, 67 S. E. 1015.

³ *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764.

³ *Smith v. Brenner*, 12 Ont. W. Rep. 9, 1197; *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A.(N.S.) 238; *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764.

⁴ *Indiana Springs Co. v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A.(N.S.) 238; *State v. Kowolski*, 96 Ia. 346, 65 N. W. 306 (traction engine, under statute requiring stopping at distance of one hundred feet from horse); *Miller v. Addison*, 96 Md. 731, 54 Atl. 967 (traction engine); *Martin v. Garlock*, 82 Kan. 266, 108 Pac. 92 (sustaining a verdict for punitive damages); *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764; *Tudor v. Bowen*, 152 N. C. 441, 67 S. E. 1015. In *Shinkle v. McCullough*, 116 Ky. 960, 11 S. W. 196, 105 Am. St. Rep. 249, the court said: "If, as the jury found by their verdict, appellant knew, or could have known by the exercise of ordinary care, that the machine in his possession and under his control had so far excited appellee's horse as to render him dangerous and unmanageable, it was his duty to have stopped his automobile, and taken such other steps for appellee's safety as ordinary prudence might suggest."

Instruction as to Negligent Failure to Stop.—The clause of an instruction declaring plaintiff entitled to recover if defendant "negligently failed to stop said automobile soon enough to prevent frightening said horses" does not charge defendant with liability on the mere finding that the horses were frightened by the automobile, the word "negligently" referring to the duty to stop as defined in the instructions, requiring defendant to maintain a vigilant watch and to stop at the appearance of danger, and the instructions requiring, as a condition

dent.⁵ This does not mean that the duty of stopping upon seeing that a horse is frightened is absolute in all cases; the rule requires the vehicle to be stopped if the circumstances are such that reasonable prudence dictates such action.⁶ Although the statute permits the driver of a motor car to pass a person driving a horse at a certain speed in the absence of any signal, he is obligated, nevertheless, to exercise reasonable care and prudence, and must proceed at a lower speed if it is apparent that injury may result from proceeding at the statutory rate.⁷

to recovery, that defendant's failure should have been the proximate cause of the injury. *Sapp v. Hunter*, 134 Mo. App. 694, 115 S. W. 463.

Inconsistency between Allegations of Complaint and Facts—In an action against an automobile owner for frightening the horses of the plaintiff, a complaint alleging that the defendant while driving his automobile "at a high rate of speed, negligently, carelessly, and with great violence drove said automobile against said horses, greatly frightening and injuring each of them, and by reason of said fright causing them to become unmanageable" and to run away to their injury as described, is legally inconsistent with the found facts that the automobile was moving at a slow rate of speed in a curved course toward the horses, and that the driver after observing that they were becoming frightened failed to stop the automobile until he brought it to a standstill at the curb near where the horses had stood, but that there was no direct contact or application of force to the horses; and it will not support a judgment for the plaintiff, since he alleges one cause of action and proves another. *Trout Brook Ice, etc., Co., v. Hartford Electric Light Co.*, 77 Conn. 338, 59 Atl. 405.

⁵ *Indiana Springs Co., v. Brown*, 165 Ind. 465, 74 N. E. 615, 6 Ann. Cas. 656, 1 L.R.A. (N.S.) 238.

Although the operator of a motor cycle upon the streets of a city is not required to anticipate that a horse will be frightened at his cycle, it is his duty to stop the machine when he discovers that the horse is frightened and likely to get beyond control. *Long v. Warlick*, 148 N. C. 32, 61 S. E. 617.

⁶ *Gue v. Wilson*, (S. C.) 69 S. E. 101.

⁷ *Davis v. Maxwell*, 108 App. Div. 128, 96 N. Y. Supp. 45.

And the fact that the operator of the vehicle does not have time and opportunity to look, because it is necessary for him to keep his eyes and attention fixed on the track of the road in order to guide his car, does not relieve him of his legal duty to reduce speed, or stop, or lessen the noise of his motor, when he sees horses trying to break away on account of fright.⁸

§ 133. Derivation of Obligation to Stop.

This duty of stopping is frequently imposed by statute.⁹ The requirement that an automobile shall be brought to a stop "whenever it shall appear that any horse driven or ridden by any person . . . is about to become frightened" makes it the duty of an automobile driver to stop his car whenever it may appear to him, by the exercise of reasonable diligence upon his part, that a horse is about to become frightened.¹ But the duty does not rest upon statute alone;

⁸ *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1087, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359.

⁹ See the statutes.

¹ *Christy v. Elliott*, 216 Ill. 31, 74 N. E. 1035, 3 Ann. Cas. 487, 1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196.

Declaration under Statute.—A statute provided that when a horse being driven on a highway appeared to be frightened at the approach of a motor vehicle, the person in charge of the latter should go as far as practicable to the side of the road and remain stationary until the horse passed, in the meantime making as little noise as possible with the steam. A declaration alleged that while plaintiff was driving on a highway, when this statute was in force, her horse became frightened by defendant's automobile; that this was, or could have been, seen by defendant, and notwithstanding the same, defendant negligently failed to and did not go to the side of the road and remain stationary until plaintiff had passed, making in the meantime as little noise as possible, in violation of the statute, whereby plaintiff's horse became further frightened and ran away, without any negligence on her part, causing the injuries for which the action was brought. The court held that this declaration stated a good cause of action, and a demurrer thereto

it is easily deducible from elementary principles of the common law.²

§ 134. Signal to Stop.

The fact that no signal to stop was given by an occupant of the horse-drawn vehicle does not relieve the driver of the motor car of this duty to stop.³ And where the stat-

was properly overruled. *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 875.

Instruction under Statute.—In an action based upon the statute providing that when a horse appears to be frightened at the approach of a motor vehicle, the driver of the car shall go as far as practicable to the side of the road and remain stationary, a prayer is proper which instructs the jury that the plaintiff is entitled to recover if they find that while she was driving on a street, using due care, the defendant's automobile approached in the middle of the road, that the defendant could have seen that plaintiff's horse was frightened by it, and, notwithstanding, defendant continued to run his automobile in the middle of the street towards the horse, and did not go to the side of the road, or slacken speed, whereby her horse became frenzied and ran away and threw plaintiff out. *Fletcher v. Dixon*, 107 Md. 420, 68 Atl. 875.

² *Tudor v. Bowen*, 152 N. C. 441, 67 S. E. 1015.

Independent of statute requiring the driver of an automobile to stop on a signal, it is his duty to stop when he sees or should see that he is frightening a horse by proceeding on his course. *Spangler v. Markley*, 39 Pa. Super. Ct. 351.

³ *Strand v. Grinnell Automobile Garage Co.*, 136 Ia. 68, 72, 113 N. W. 488.

Absence of Statutory Signals—Instructions.—Under a statute making it the duty of the operator of a motor vehicle immediately to stop when signaled by a person driving a restive horse, it has been held not to be error to refuse to instruct the jury that the plaintiff could not recover by simply proving that her horse was restive and that the defendant knew of that fact, if it should be found that the plaintiff made no signal to the defendant to stop; for, under the general rules of law requiring reasonable care on the part of a person operating a motor vehicle, he might be in duty bound, on seeing that another driving in the highway was being put in imminent peril by the frightening of a horse, to stop his vehicle although no signal

ute requires the driver of an automobile to stop his car whenever it appears that a horse driven on the highway is about to become frightened, it obviously is not necessary that the driver of the horse shall signal to have the automobile stopped.⁴

A signal to stop, likewise, renders it obligatory upon the driver of a motor vehicle to bring his vehicle to a standstill,⁵

was given. *Walkup v. Beebe*, 139 Ia. 395, 116 N. W. 321. To the same effect see *Strand v. Grinnell Automobile Garage Co.*, 136 Ia. 68, 113 N. W. 488.

⁴ *Christy v. Elliott*, 216 Ill. 31, 74 N. E. 1035, 3 Ann. Cas. 487, 1 L.R.A.(N.S.) 215, 108 Am. St. Rep. 196.

⁵ *Sufficiency of Evidence to Sustain Verdict.*—In *Horak v. Dougherty*, (Ia.) 114 N. W. 883, it appeared that the plaintiff was driving north on one street and the defendant was approaching from the east on an intersecting cross street. The plaintiff signaled to the defendant to stop the automobile by lifting his hand and calling. As the automobile did not stop, he repeated this, and immediately thereafter his team began turning, and, in doing so, threw him from the carriage and broke away. The defendant testified that he did not observe either of the signals or hear the plaintiff's call, and that he first saw the team when about twenty or thirty feet east of the crossing on the east side of the street on which plaintiff was driving. The distance within which an automobile, moving at four miles per hour as was the defendant's car, could be stopped was variously estimated at from two to twelve feet. Both parties were moving near the centre of the street. The evidence tended to show that the team was gentle and had not taken fright at automobiles before. The court said: "It is apparent from above statement that the jury might have found that defendant, in the exercise of reasonable diligence, should have observed plaintiff's first signal and stopped the automobile at once, and, had he done so, the accident might have been avoided;" and held the evidence sufficient to sustain a verdict for the plaintiff.

A special finding by the jury that at the time of the accident defendant was not operating his machine at a rate of speed prohibited by the statute does not negative a violation of another provision of the statute by the failure of the defendant to stop when signaled by the plaintiff. *Walkup v. Beebe*, 139 Ia. 395, 116 N. W. 321. Compare *Eichman v. Buchheit*, 128 Wis. 385, 107 N. W. 325, 8 Ann. Cas. 435.

and keep it motionless until the danger of accident has been overcome.⁶

§ 135. Inference from Failure to Stop.

Ordinarily the failure of the operator of a motor vehicle to stop upon the appearance of fright on the part of a horse being driven on the highway is negligence entitling the driver of the horse to recover in an action for injury caused by the horse becoming unmanageable.⁷ In an action of this

⁶ *Facts Disclosing Negligence.*—In an action brought to recover damages for personal injuries, it appeared that while the plaintiff was riding along a highway in a wagon drawn by a horse driven by her husband, the defendant's automobile came in view; that the horse being afraid, the plaintiff's husband got out of the wagon, motioned with his hand for the automobile to stop, went to the horse's head and took him by the bit. The automobile stopped once and then started on toward the horse. As it approached him the horse became unmanageable, reared and plunged. The plaintiff's husband struggled to control him and halloosed "whoa" continually. The automobile nevertheless proceeded in its course and passed near the horse, not turning from him at all. The horse forced the wagon into the ditch, where it was turned over and the plaintiff thrown out and injured. The court held that a judgment dismissing the plaintiff's complaint should be reversed; that the jury would have been justified in finding that the defendant was negligent in not stopping the automobile, turning out, and remaining quiet until the horse passed it. *Morphy v. Wait*, 102 App. Div. 121, 92 N. Y. Supp. 253. See also *Knight v. Lanier*, 69 App. Div. 454, 74 N. Y. Supp. 999.

⁷ If the driver of an automobile continues to drive his car forward at a high rate of speed, emitting loud and unusual noises, after seeing that a horse is frightened, he is guilty of negligence. *Coy v. Landers*, 146 Mo. App. 413, 125 S. W. 789.

Evidence Requiring Submission of Case to Jury.—In *Raher v. Hinds*, 133 Ia. 312, 110 N. W. 597, which was an action for the value of a buggy and harness, destroyed by a runaway team frightened at an automobile, the court reviewed the evidence and held that it required the submission of the question of defendant's negligence in failing to stop his machine sooner, after he discovered that the team was frightened and likely to become unmanageable.

character the court said that if the defendant "continued to approach the horse in a manner that naturally would and did increase its fright, after he could and should have seen that in so doing he was endangering the plaintiff's safety, he was negligent." ⁸ Likewise, ignoring a signal to stop has been characterized as negligence. It has been said: "It is doubtless unpleasant to be obliged to slow down a rapidly running machine to accommodate a person driving or riding a country horse that does not readily become accustomed to the automobile innovation, but it is certainly well understood that if such a driver ignores a proper signal to stop and exercise ordinary care under the circumstances, then if an injury follows, he must respond in damages for the injuries which have been caused by his neglect." ⁹

Sufficiency of Evidence to Sustain Verdict.—In *Brinkman v. Pacholke*, 41 Ind. App. 662, 667, 84 N. E. 762, there was some evidence tending to show that both vehicles were going in the same direction, and that the operator of the automobile commenced to sound the horn attached thereto when he was about three hundred feet behind the appellee's vehicle. Thereupon appellee's horse gave unmistakable evidence of fright, his movements being seen plainly by the occupants of the automobile. Notwithstanding such indication of fright, the operator of the car caused it to advance, and attempted, while the horse was manifesting fright, to pass the appellee, thereby causing the horse to become more frightened and to rear and jump and run away. There was also evidence from which the jury, with other facts, might have found that under the circumstances it would have been reasonably prudent for the operator of the car to give appellee an opportunity to reach a cross-road, a short distance in advance, where he might have turned the horse away from the cause of his fright, and not to seek to pass at the place where he overtook the appellee. It was held that a verdict for the plaintiff was sustained by the evidence.

The plaintiff's action is one for negligence and consequently must be brought within the time specified in respect of such actions. *Sharkey v. Skilton*, (Conn.) 77 Atl. 952.

⁸ *McDonald v. Yoder*, 80 Kan. 25, 101 Pac. 468.

⁹ *Spangler v. Markley*, 39 Pa. Super. Ct. 351. To like effect is *Murphy v. Wait*, 102 App. Div. 121, 92 N. Y. Supp. 253. And see *Towle v. Morse*, 103 Me. 250, 68 Atl. 1044.

But the surrounding circumstances are controlling upon the question of negligence. Each case presents different conditions and situations, and what is due care in one case may be negligence in another. While in some cases the degree of care to be exercised by the operator of an automobile may require the car to be stopped upon the first evidence of danger, and in others it may be necessary to slow down the speed, yet under some circumstances it may be more prudent to proceed at a high rate of speed, or not to lessen the speed at which the car is running.¹

§ 136. Stopping Noise of Vehicle.²

If the driver of a motor vehicle perceives that a horse is becoming frightened by the noise produced by the motive power of his vehicle, it is his duty, ordinarily, to stop such noise,³ but this rule is not absolute, the circumstances of the case being of controlling importance. It has been said: "It is easy to imagine conditions under which the stopping of the motor would increase the danger to all parties. If the machine was approaching a frightened horse on a steep grade, it might be necessary for the operator to retain his

¹ Webb v. Moore, 136 Ky. 708, 125 S. W. 153.

² As to noise generally see *supra*, § 128.

³ Lubier v. Michaud, 38 Quebec Super. Ct. 190.

Steam Roller.—If the engineer of a steam street roller sees initial signs of fright and uneasiness in a horse, caused by the noises made by the roller, and, giving no heed to them, continues the original cause of the fright until the horse breaks entirely away from control, the owner of the roller is liable, although the continued noises were usual. Phelan v. Granite Bituminous Paving Co., 22 Mo. 666, 127 S. W. 318, 329. So keeping a steam roller in motion is negligence. Paine v. Rochester, 59 Hun 627, 37 N. Y. St. Rep. 587.

In starting the motor of an automobile its operator is bound to keep a watchful eye on horses standing close at hand, and if the animals manifest fright it is his duty to stop until they can be removed. Tudor v. Bowen, 152 N. C. 441, 67 S. E. 1015.

power in order to avoid serious injury to himself and the other occupants of the car.”⁴

The statute requiring the operators of motor cars to stop on signal from the drivers of vehicles drawn by horses does not impose an absolute duty of stopping the motor of an automobile.⁵

§ 137. Character of Horse Frightened.

The owner of a horse of tractable habits is not bound to refrain from driving the animal on the highway merely because it has shown fright at motor vehicles,⁶ but it may be otherwise in case of a vicious and dangerous animal.⁷

⁴ *Mahoney v. Maxfield*, 102 Minn. 377, 113 N. W. 904, 12 Ann. Cas. 289, 14 L.R.A. (N.S.) 251.

⁵ It has been held that the statute providing that the driver of an automobile on any public road, highway, or street, when signaled by the driver of any vehicle propelled by horses, shall stop his automobile until the other vehicle has passed, does not impose upon the driver of the automobile the absolute duty of stopping the motive power of his machine as well as the machine itself, but that whether the failure to stop the power is negligence must be determined from the facts in each particular case. *Mahoney v. Maxfield*, 102 Minn. 377, 113 N. W. 904, 12 Ann. Cas. 289, 14 L.R.A. (N.S.) 251.

⁶ In *Spangler v. Markley*, 39 Pa. Super. Ct. 351, the court said: “The mere fact that the horse, which had previously been gentle and easily controlled, showed signs of being unruly when driven in view of an automobile, did not impose upon the owner the duty to refrain from using him on the highway with ordinary care. The extraordinary contention that it is contributory negligence on the part of the owner of a horse of ordinarily gentle and tractable habits to use him on the highway, simply because the animal occasionally becomes frightened at an automobile, cannot be sustained.”

⁷ In *Bliss v. Wolcott*, 40 Mont. 491, 107 Pac. 423, 135 Am. St. Rep. 636, upon the issue of contributory negligence, the defendant adduced evidence which tended to show that the horse driven by the plaintiff was unsafe and dangerous, in that it would become frightened and unmanageable at the sight of an automobile, and, if approaching it, would turn and run, whether the car made noise or not. The court

Evidence of the character of a horse that was frightened by an automobile is admissible on the issue of whether the proximate cause of the resulting injury was the negligence of the driver of the car or the vice of the animal.⁶ And while evidence of reputation is inadmissible to show the character of the horse, such evidence is admissible, it seems, on an issue of imputed knowledge of plaintiff of the fact that the horse was vicious, if such issue is raised by the pleadings.⁹

§ 138. Duty of Driver of Horse to Turn Out upon Receiving Signal.

Upon hearing a signal from an automobile approaching from behind him, the driver of a horse is required to turn out. In an action for injuries caused by plaintiff's horse becoming frightened by defendant's automobile overtaking and passing plaintiff, evidence that plaintiff failed to turn out after defendant had repeatedly sounded his horn, although there was sufficient room at the right of the traveled part of the highway to enable plaintiff to do so, is admissible upon the question of contributory negligence.¹

§ 139. Duty to Take Measures for Controlling Horse.

And reasonable efforts to control a horse must be resorted to by its driver, it seems, if he has reason to suppose that the animal will become frightened by a motor vehicle,² but

held that the evidence was competent, "not only upon the issue of contributory negligence, but also to aid the jury in determining whether the horse was the sole cause of plaintiff's injuries."

¹ *Cain v. Wintersteen*, 144 Mo. App. 1, 128 S. W. 274, 276.

² *Cain v. Wintersteen*, 144 Mo. App. 1, 128 S. W. 274.

³ *Nadeau v. Sawyer*, 73 N. H. 70, 59 Atl. 369.

⁴ The evidence is insufficient to warrant a finding that the proximate cause of plaintiff's injuries was the negligence of the driver of a team that took fright at an automobile, where all of plaintiff's dis-

he is not bound to take extreme measures merely because the horse has previously exhibited fright. In an action to recover damages for personal injuries sustained by the plaintiff in consequence of the frightening of his horses by the defendant's automobile, an averment in the declaration that at an earlier hour on the day of the accident the defendant's automobile had passed the plaintiff's carriage and greatly frightened his horses does not justify the court in presuming that it was contributory negligence for the plaintiff to fail to jump out of his carriage upon the second approach of the automobile.³

§ 140. Duty to Give Signal to Stop Motor Vehicle.

And the driver of a horse is not required under all circumstances to give a signal to stop in order to free himself from the charge of contributory negligence.⁴

§ 141. Leaving Horse Unattended.

But a driver who leaves a horse, which is known to him to be afraid of automobiles, unrestrained and unattended in a public highway where automobiles are apt to pass, is guilty of negligence.⁵

interested witnesses testified that he was holding his horses tightly and doing all he could to keep them under control, although one interested witness testified that he was driving with loose lines. *Grant v. Armstrong*, 55 Wash. 365, 104 Pac. 632.

³ *McIntyre v. Orner*, 166 Ind. 57, 76 N. E. 750, 8 Ann. Cas. 1088, 4 L.R.A.(N.S.) 1130, 117 Am. St. Rep. 359.

⁴ *Strand v. Grinnell Automobile Garage Co.*, 136 Ia. 68, 72, 113 N. W. 488.

⁵ *Robinson v. Morris*, 30 R. I. 132, 73 Atl. 615.

And harnessing a restive horse in a street which is crowded, when there are places for harnessing horses in the immediate vicinity, is, it seems, negligence barring a recovery for injuries caused by the animal becoming frightened at an automobile. Baugher v. Harman, 110 Va. 316, 66 S. E. 86.

§ 142. Bringing Horse Near Vehicle Producing Fright.

And by bringing a horse into proximity with a motor vehicle the driver assumes the risk of the animal becoming frightened and occasioning injury. If a person voluntarily drives a horse upon a thoroughfare with knowledge that a steam roller is being operated thereon, and the horse becomes frightened at sight of the roller, or at the necessary usual or ordinary noise in operating it, and through such fright runs away and causes the driver an injury, the risk of such fright and injury will be deemed to have been assumed.⁶

§ 143. Functions of Court and Jury in Actions for Injuries Caused by Frightened Horses.

The rules of law governing the functions of the court and jury in the determination of causes arising from the operation of motor vehicles are in no way peculiar. The rules respecting the decision of questions of law and fact generally are controlling. Where a cause arises from a horse becoming frightened by a motor vehicle the case, generally speaking, is left to the jury to determine from all the facts and circumstances whether or not the driver of the car exercised, or failed to exercise, care to avoid the accident, and whether or not the injured party observed due care,⁷ appropriate instructions being given by the court.

⁶ *Phelan v. Granite Bituminous Paving Co.*, 227 Mo. 666, 127 S. W. 328.

⁷ *Needy v. Littlejohn*, 137 Ia. 704, 710, 115 N. W. 483; *Webb v. Moore*, 136 Ky. 708, 125 S. W. 153; *Matla v. Rapid Motor Vehicle Co.*, 160 Mich. 639, 125 N. W. 708; *Cusick v. Kinney*, (Mich.) 128 N. W. 1089; *Fisher v. McGrath*, (Minn.) 128 N. W. 579; *Shaffer v. Coleman*, 35 Pa. Super. Ct. 386. *Reed v. Snyder*, 38 Pa. Super. Ct. 421 (plaintiff's horse was frightened by vapor and noise of defendant's automobile); *Spangler v. Markley*, 39 Pa. Super. Ct. 351.

§ 144. Verdicts in Actions for Injuries Caused by Frightened Horses.

Evidence sufficient to sustain a verdict for the plaintiff has been held to be disclosed in many of the reported cases.⁸ And verdicts have been sustained as not being excessive in several instances.⁹ The fact that the verdict is for the full amount prayed in the complaint is not evidence of passion or prejudice.¹

Negligence of Driver of Car.—McDonald v. Yoder, 80 Kan. 25, 101 Pac. 468; Webb v. Moore, 136 Ky. 708, 125 S. W. 152; National Casket Co. v. Powar, 137 Ky. 156, 125 S. W. 279; Thomas v. Armitage, 111 Minn. 238, 126 N. W. 735; Rochester v. Bull, 78 S. C. 249, 58 S. E. 766 (plaintiff's mule was frightened by noise of defendant's automobile after defendant had stopped on signal); Grant v. Armstrong, 55 Wash. 365, 104 Pac. 632.

Contributory Negligence of Driver of Horse.—Strand v. Grinnell Automobile Garage Co., 136 Ia. 68, 113 N. W. 488; Fletcher v. Dixon, 107 Md. 420, 426, 68 Atl. 878; Chapman v. Strong, 162 Mich. 623, 127 N. W. 741, 17 Detroit Leg. N. 669; Curley v. Electric Vehicle Co., 68 App. Div. 18, 74 N. Y. Supp. 35 (defendant backed automobile against plaintiff's horse); Knight v. Lanier, 69 App. Div. 454, 74 N. Y. Supp. 999; Murphy v. Wait, 102 App. Div. 121, 92 N. Y. Supp. 253.

⁸ Strand v. Grinnell Automobile Garage Co., 136 Ia. 68, 113 N. W. 488; Webb v. Moore, 136 Ky. 708, 125 S. W. 152; Towle v. Morse, 103 Me. 250, 68 Atl. 1044; Gurney v. Piel, 105 Me. 501, 74 Atl. 1131; Matla v. Rapid Motor Vehicle Co., 160 Mich. 639, 125 N. W. 708, 709; Chapman v. Strong, 162 Mich. 623, 127 N. W. 741, 17 Detroit Leg. N. 669; Thomas v. Armitage, 111 Minn. 238, 126 N. W. 735; Mason v. West, 61 App. Div. 40, 70 N. Y. Supp. 478, reversing 31 Misc. 583, 65 N. Y. Supp. 651; Spangler v. Markley, 39 Pa. Super. Ct. 351. See also the cases cited in the notes *passim*.

⁹ Shinkle v. McCullough, 116 Ky. 960, 77 S. W. 196, 105 Am. St. Rep. 249 (verdict of \$1,020 held not excessive where it appeared that plaintiff suffered partial loss of vision of one eye); Phelan v. Granite Bituminous Paving Co., 227 Mo. 666, 127 S. W. 318 (verdict for \$7,500 held not excessive where plaintiff lost one eye).

¹ Phelan v. Granite Bituminous Paving Co., 227 Mo. 666, 127 S. W. 318.

Collision.

§ 145. Liability of Drivers of Motor Vehicles Generally.

If a collision takes place upon the highway between a motor vehicle and a vehicle drawn by a horse² the driver of the car is liable for resulting injury³ if such collision is due to any negligence on his part, and if the driver of the horse was free from fault.⁴

²*Inference from Absence of Injury to Car.*—In a collision case the defendant gave proof by himself and another witness, who examined his automobile the morning after the accident, that there were no marks thereon, nor were the lamps on the front of the car broken or injured. From this it was contended that it was not possible that any collision had occurred. The plaintiff produced testimony that defendant had collided with another vehicle while driving his car earlier the same day. This fact was not directly denied by defendant. The court said: "If this be true, it would seem that it is possible for an automobile to collide with another vehicle without imprinting visible evidence of the fact on the machine itself." *Klein v. Burleson*, 138 App. Div. 405, 122 N. Y. Supp. 752.

³*Shock Bringing on Miscarriage.*—A complaint alleging that the defendant's automobile collided with the horses drawing the vehicle in which the plaintiff was riding, whereby the female plaintiff sustained a shock, bringing on a miscarriage, was held to state a cause of action in *Pankopf v. Hinkley*, 141 Wis. 146, 123 N. W. 625, 24 L.R.A. (N.S.) 1159.

⁴*Gue v. Wilson*, (S. C.) 69 S. E. 99.

Excessiveness of Verdicts.—In an action for damages caused by defendant's automobile running into plaintiff's horse and wagon the court held that a verdict for two hundred and fifty dollars was supported by the evidence where it appeared that plaintiff was thrown from his wagon and sustained some personal injuries. *Anderson v. Sparks*, 142 Wis. 398, 125 N. W. 925. Plaintiff stopped his horse, and defendant, operating an automobile behind him, collided with plaintiff's vehicle, throwing plaintiff out and rendering him unconscious. Plaintiff was confined to his bed for five days. The court held that the evidence disclosed negligence and that a verdict for one thousand dollars was not excessive. *Rogers v. Mann*, (R. I.) 70 Atl. 1057. And see *Winfrey v. Lazarus*, (Mo.) 128 S. W. 276 (sustaining a verdict for \$800).

§ 146. Allegations of Negligence on Part of Driver of Motor Vehicle.

In an action for injury caused by a collision between the defendant's motor vehicle and the plaintiff's horse-drawn vehicle the plaintiff must allege the facts and circumstances that constituted negligence on the part of the defendant. An allegation that the defendant so negligently and carelessly operated and ran his automobile that it struck the plaintiff's vehicle is insufficient; for while an averment of the fact of a collision, without stating the particular act of negligence that caused it, may be sufficient in those cases where by reason of the relation of the parties the law places upon one a high duty to prevent injury to another, or where the act itself bespeaks the negligence of its cause, it cannot be held that from the mere statement of the fact of collision upon a highway, between wayfarers with equal rights and duties, the law will infer the collision to have been the result of negligence, or the negligence to have been that of the defendant. In such cases the fact of collision is not the cause of action; the acts of negligence that caused the fact of collision constitute the cause of action. It therefore devolves upon the plaintiff, if he would hold the defendant accountable for the fact of collision, which possibly may have been the result of inevitable accident or of one of many negligent acts of either party, to disclose to the defendant the cause of the collision and to state the acts that contributed to its occurrence.⁵

§ 147. Inference from Disobedience of Law.

Exceeding the speed limit is negligence, according to a majority of courts,⁶ although some courts view such a vio-

⁵ *Campbell v. Walker*, (Del.) 76 Atl. 475.

⁶ *Posener v. Harvey*, (Tex.) 125 S. W. 356. See *supra*, § 99.

lation of law as only evidence of negligence.⁷ And a violation of the "law of the road" likewise is negligence, ordinarily.⁸ It has been said that "with a heavy machine weighing from three to four thousand pounds going at the rate of twenty-five miles an hour, it is indefensible negligence to attempt to pass a buggy within a few inches. Such driving cannot be too severely condemned."⁹

§ 148. Duty upon Appearance of Danger of Collision.

When danger of collision becomes apparent¹ it is the duty of the driver of an automobile to stop or turn off the road. In a collision case the court said: "If the chauffeur driving defendant's automobile knew or could have known, by the exercise of ordinary care, that the buggy was headed toward him and the collision would take place unless the automobile was either stopped or turned to the opposite side of the road, it was his duty to have stopped the machine or

⁷ Driving at a rate prohibited by law is evidence of negligence, and it may be so charged by the trial judge. Reading of the statute, therefore, in no way constitutes legal error and is in no way prejudicial to the rights of a defendant upon the trial. *People v. Scanlon*, 132 App. Div. 528, 117 N. Y. Supp. 57.

⁸ *Inference from Facts*.—Where there is a conflict in the evidence as to whether the plaintiff was driving his vehicle on the right of the centre of the highway when he was run into by defendant's automobile turning a corner to the right, evidence that the automobile struck the horse on the left hip and the vehicle on the left front wheel supports the theory that plaintiff was upon the right side of the way. *Schoening v. Young*, 55 Wash. 90, 104 Pac. 132.

⁹ *People v. Scanlon*, 132 App. Div. 528, 117 N. Y. Supp. 57.

¹ *Evidence that Vehicle Was Visible*.—The testimony of an occupant of a vehicle that was struck by an automobile, that he saw the automobile when it was fifty or sixty feet from him and that it had no lights, is some evidence tending to show that the witness's vehicle could have been seen at that distance by the driver of the automobile. *McFern v. Gardner*, 121 Mo. App. 9, 97 S. W. 972.

turned to the right of the centre of the road to avoid the collision." ²

§ 149. Burden of Proving Matter Pleaded in Confession and Avoidance.

If the operator of a motor vehicle as a defense to an action for injury by reason of a collision between his car and the plaintiff's vehicle sets up additional matters by way of confession and avoidance, the burden of proving such defense is upon him. This is the case where the defendant pleads that the collision was brought about by circumstances beyond his control, in that the steering wheel of his automobile, just before reaching the spot where it struck the plaintiff's vehicle, became choked in such a manner that he could not steer the same to the right so as to avoid the collision. ³

§ 150. Functions of Court and Jury in Actions against Operators of Motor Vehicles.

But the surrounding circumstances of cases of this character are of controlling importance upon the questions of negligence and contributory negligence, and the determination of those questions in most instances is the function of a jury. ⁴ Thus where it appeared that the plaintiff was

² *McFern v. Gardner*, 121 Mo. App. 1, 10, 97 S. W. 972.

³ *Posener v. Harvey*, (Tex.) 125 S. W. 356.

⁴ *Ketchum v. Fillingham*, 162 Mich. 704, 127 N. W. 702; *McFern v. Gardner*, 121 Mo. App. 1, 10, 97 S. W. 972; *Aronson v. New York Taxicab Co.*, 125 N. Y. Supp. 756; *Anderson v. Sparks*, 142 Wis. 398, 125 N. W. 925. In *Mendleson v. Van Rensselaer*, 118 App. Div. 516, 103 N. Y. Supp. 578, it appeared that the plaintiffs were driving their wagon and approaching the intersection of another road into which they intended to turn. On nearing the intersection they failed

driving his wagon on the right-hand side of the road, and was struck by the defendant's automobile approaching from the rear, and that the road was at the time lighted sufficiently to enable the defendant to see for one hundred and fifty feet, the court held that a question for the jury was presented.⁵

§ 151. Liability of Drivers of Horses for Injury Caused by Collision.

The driver of a horse-drawn vehicle is liable for injury arising from a collision with an automobile if such injury

to keep to the right thereof as required by the statute, but turned to the left side of the road. The defendant, coming from behind, in attempting to pass to the left of the plaintiffs, as required by the motor vehicle law, struck and injured the horse and wagon. On the question of the defendant's liability it was held, that the questions as to whether the defendant gave sufficient warning and properly managed his automobile in attempting to pass the plaintiffs when nearing the point of intersection of the roads, as well as the contributory negligence of the plaintiffs, were not questions of law but of fact proper for the jury. In *Millman v. Appleton*, 139 App. Div. 738, 124 N. Y. Supp. 482, it appeared that when the plaintiff rested, she had established that she was driving upon the proper side of the road, traveling at a rate of speed not exceeding a mile in twenty minutes, when defendant's automobile whirled into the road, with no warning of its approach, and, instead of keeping upon the side of the road over which the law of the road required it to travel, crossed the same diagonally, striking the front wheel of the carriage. The court said: "The accident occurred upon the side of the road upon which plaintiff was entitled to travel and where the automobile had no business. These facts, wholly unexplained, did not justify the trial court in determining the case as matter of law. The questions at issue were of fact, to be determined by the jury, and the exception to the dismissal of the complaint and refusal to permit the plaintiff to go to the jury upon the questions of defendant's negligence and plaintiff's freedom from negligence contributing to her injury present reversible error."

⁵ *Decon v. Dexheimer*, (N. J.) 73 Atl. 49.

is attributable to his negligence.⁶ But it is not negligence for the driver of an unlighted truck to stop the same at night in the centre of the highway to rest his horses, there being room for other vehicles to pass.⁷ And where the driver of a vehicle is confronted with the sudden danger of an automobile coming rapidly directly toward him, he cannot be said to be negligent as a matter of law because he turns to the left instead of to the right.⁸

⁶ *Renault Taxi Service v. Park Carriage Co.*, 125 N. Y. Supp. 518. In *Lawson v. Wells*, 113 N. Y. Supp. 647, which was an action to recover damages for an injury to the plaintiff's automobile resulting from a collision with one of the defendant's express wagons, and claimed to have been caused by the negligence of the defendant's driver, it was held that there was sufficient evidence to sustain the jury in finding that the injury was caused by the negligence of the defendant's servant, and that the plaintiff did not contribute to the result by any negligence on the part of its servant who was in charge of the automobile. In *Denny v. Strauss*, 109 N. Y. Supp. 26, it appeared that the plaintiff's automobile was standing properly enough facing westwardly and alongside the northerly curb on a certain street, and from the uncontradicted testimony of a disinterested witness that the defendant's wagon, from which a ladder, projected in the rear, was proceeding westerly along the car tracks in such street with ample room to pass by. The driver of the wagon swerved his horse to the south so that the projecting ladder struck and tore off the top of the automobile. The court expressed the opinion that the plaintiff was entitled to judgment.

Evidence that the defendant's name appeared upon the wagon which collided with the plaintiff's automobile, and that one of its occupants was in the employ of the defendant at the time, is sufficient *prima facie* to connect the defendant with the accident. *Lawson v. Wells*, 113 N. Y. Supp. 650.

⁷ One who at night drives an automobile into the rear of a loaded truck which the driver has stopped in the highway to rest his horses is guilty of contributory negligence and cannot recover for the injuries received. It is no excuse that after rounding a curve and discovering the truck the motorist could not stop in time, for under the circumstances he should have had his machine under control. *Lorenz v. Tisdale*, 127 App. Div. 433, 111 N. Y. Supp. 173.

⁸ *McFern v. Gardner*, 121 Mo. App. 1, 97 S. W. 972.

CHAPTER VIII.

MUTUAL RIGHTS AND DUTIES OF OPERATORS OF MOTOR VEHICLES, AND OTHERS, ON HIGHWAY (continued).

Pedestrians Generally.

- § 152. Duty of Operators of Motor Vehicles to Exercise Skill and Care.
- 153. Duty Respecting Control and Management of Vehicle.
- 154. Duty of Operators to Use Senses.
- 155. Duty upon Seeing Pedestrians in Street or Highway.
- 156. Inference from Collision between Vehicle and Pedestrian.
- 157. Duties of Pedestrians Generally.
- 158. Pedestrian Crossing Street or Highway.
- 159. Pedestrian Walking or Standing in Highway.
- 160. Duty of Drivers to Persons Boarding or Leaving Street Cars.
- 161. Duty of Persons Boarding or Leaving Street Cars.
- 162. Functions of Court and Jury.
- 163. Excessiveness of Verdicts for Pedestrians Injured by Motor Vehicles.

§ 152. Duty of Operators of Motor Vehicles to Exercise Skill and Care.

The driver of a motor vehicle owes to pedestrians a duty of exercising skill¹ and care in the management of his vehi-

¹ *Where a beginner in the management of an automobile concentrated his attention on a curve which he was executing, and not on what was ahead of him, and did not see a pedestrian until he was right on her, and he then failed to stop, as he could have done, within a foot or two, but ran his machine some eight feet after he had knocked te pedestrian down, the court held that the judicial cause of the accident was his inattention to what was ahead of him in the street, combined with his lack of skill in the management of the machine, and that, therefore, the pedestrian was entitled to recover damages. Navailles v. Dielmann, 124 La. 421, 50 So. 449, 134 Am. St. Rep. 508.*

cle.² The degree of care, prudence, and discretion must be such as the circumstances demand, increased care being required where there is increased danger.³ A driver must be especially careful in the streets of a city where pedestrians are numerous.⁴

§ 153. Duty Respecting Control and Management of Vehicle.

A driver must not violate the "rules of the road," and if he drives upon the wrong side of the street he is bound to take extraordinary precautions to prevent a collision with pedestrians who may be using the street.⁵ It has been held

² May v. Allison, 30 Pa. Super. Ct. 50; Gagnon v. Robitaille, 16 Rev. Leg. N. S. (Can.) 235.

³ Simeone v. Lindsay, 6 Penn. (Del.) 227, 65 Atl. 778.

The more dangerous the vehicle, and the greater its liability to do injury to others, the greater the degree of care and caution required in its use and operation. Simeone v. Lindsay, 6 Penn. (Del.) 227, 65 Atl. 778.

The degree of care requisite is such as ordinarily careful and prudent persons would exercise under like circumstances. Simeone v. Lindsay, 6 Penn. (Del.) 227, 65 Atl. 778.

A petition in an action for injuries to a pedestrian, by being struck by an automobile, which shows the condition of the street where the collision occurred and the surrounding circumstances, and which alleges that the operator of the automobile was running it in a careless and reckless manner, and neglected to stop it, has been held to be sufficiently specific. Navailles v. Dielmann, 124 La. 421, 50 So. 449, 134 Am. St. Rep. 508.

⁴ Lampe v. Jacobsen, 46 Wash. 536, 90 Pac. 645. That the place where an accident occurred is in the public street in a large city near a railway station, where persons are almost constantly getting on and off the street cars, are circumstances of themselves enjoining care and vigilance for the safety of others upon persons operating powerful motor vehicles thereabout. Shamp v. Lambert, 142 Mo. App. 567, 121 S. W. 772.

⁵ *Driving on Left Requires Greater Vigilance.*—Where an ordinance required vehicles going in a northerly direction to take the east side of the street and going south to take the west side, it was held not error to charge the jury that "if the driver chose to go up the west

that a person driving an automobile on the wrong side of the street and close to the curb is bound either to give a signal of warning to any pedestrian who may attempt to cross the street, or to run his car at so slow a rate that it will be under such control as not to injure the pedestrian.⁶

The operator of a motor vehicle must not drive recklessly⁷ or at excessive speed⁸ but must have his car under control.⁹ It has been said that "the driving of an automobile at a high rate of speed through city streets, at times when and places where other vehicles are constantly passing, and men, women and children are liable to be crossing;

side of the avenue on account of an obstruction on the east side, he was bound to exercise greater diligence to avoid pedestrians than if he was proceeding on the right side of the street." *New York Transp. Co. v. Garside*, 157 Fed. 521, 85 C. C. A. 285, modifying 146 Fed. 588.

⁶ *Bradley v. Jaeckel*, 65 Misc. 509, 119 N. Y. Supp. 1071.

⁷ The operation of a car "recklessly so as to endanger life," in violation of statute, is negligence giving rise to a cause of action on behalf of a person injured, if the latter is not guilty of contributory negligence. *Wolfe v. Ives*, (Conn.) 76 Atl. 526.

⁸ *Apperson v. Lazro*, 44 Ind. App. 186, 87 N. E. 97, 99, 88 N. E. 99; *Lampe v. Jacobsen*, 46 Wash. 536, 90 Pac. 654.

Inference from Immediate Stoppage.—That an automobile was stopped within a few feet after striking a pedestrian indicates that it must have been running quite slowly. *West v. New York Transp. Co.* 47 Misc. 603, 94 N. Y. Supp. 426.

Evidence Making Speed Authorizing Punitive Damages Question for Jury.—The plaintiff in an action for damages occasioned by a collision with the defendant's automobile testified that the car was going very rapidly, and his testimony was supported by the testimony of three other witnesses, one of whom described it as "going like an express train." The defendant and his witnesses testified that he was traveling at a moderate rate of speed, and with due care. The court held that from this testimony it was proper that the jury should be left to determine as to whether or not the defendant was guilty of gross negligence or recklessness in the management and operation of his automobile, and hence liable in punitive damages. *Weiskopf v. Ritter*, (Ky.) 97 S. W. 1120, 1121.

⁹ *Diamond v. Cowles*, 174 Fed. 571, 98 C. C. A. 417.

or around corners at the intersection of streets; or in passing by street cars from which passengers have just alighted or may be about to alight; or in other similar places and situations where people are liable to fail to observe an approaching automobile, is in itself actionable negligence.”¹

§ 154. Duty of Operators to Use Senses.

A driver is bound to make a reasonable use of all of his senses in order to prevent accident.² It is his duty to look in the direction in which he is proceeding and see persons walking in the street,³ and a failure to do so may render him liable under the doctrine of the “last clear chance,” notwithstanding negligence on the part of a pedestrian collided with.⁴

§ 155. Duty upon Seeing Pedestrians in Street or Highway.

If he sees any persons or has reason to suppose that pedestrians will be in the street he must give a signal of warn-

¹ *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572.

² *Simeone v. Lindsay*, 6 Penn. (Del.) 227, 65 Atl. 778.

³ *Navailles v. Dielmann*, 124 La. 421, 50 So. 449, 134 Am. St. Rep. 508; *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 772; *Brewster v. Barker*, 129 App. Div. 724, 113 N. Y. Supp. 1026.

⁴ *Last Chance Doctrine*.—Although a pedestrian was guilty of contributory negligence, still the driver of an automobile which collided with him is responsible under the last chance doctrine, if by looking ahead as drivers are legally bound to be doing he could have seen the pedestrian, and seen that he was unaware of the danger into which he was going, and so have avoided the accident. *Burvant v. Wolfe*, (La.) 52 So. 1025. Similarly in *Navailles v. Dielmann*, 124 La. 421, 50 So. 449, 134 Am. St. Rep. 508, where it appeared that a pedestrian, because of terror, ran in front of an automobile, and that the operator saw the danger to the pedestrian in time to have avoided the accident by stopping, but he failed to do so, and ran over the pedestrian, the court held that the operator was liable under the last chance doctrine.

ing. This duty has been prescribed by statute in some instances.⁵ But if a person who is run against by an automobile saw the car coming the question whether the driver thereof blew his horn is of no importance.⁶

In addition to sounding a signal of warning the driver is bound to reduce the speed of his vehicle,⁷ and if a collision is imminent he must bring it to a stop,⁸ and he must not take chances of the pedestrian getting out of the way.⁹ Nor does the duty to stop arise only where a collision is threatened; it exists in every case where a pedestrian may

⁵ Consult the statutes and local ordinances.

⁶ *West v. New York Transp. Co.*, 47 Misc. 603, 94 N. Y. Supp. 426. Consequently in an action for damages by the pedestrian the admission of proof that the horn was not sounded is not prejudicial. *Thomas v. Armitage*, 111 Minn. 238, 126 N. W. 735.

⁷ *In turning a corner of a street in a city*, it is the duty of the driver of an automobile to reduce his speed. *Buscher v. New York Transp. Co.*, 106 App. Div. 493, 94 N. Y. Supp. 798.

⁸ *Gagnon v. Robitaille*, 16 Rev. Leg. N. S. (Can.) 235.

Possibility of Stopping Car—Admissibility of Evidence.—Where the defendant in his answer charges contributory negligence, in that the pedestrian passed hurriedly from the sidewalk into the street near the automobile, and so near that it was impossible to stop in time to avoid a collision, and introduces evidence to prove these allegations, it is proper to permit the plaintiff to meet the defense thus attempted by proof of the possibility of stopping the car after the dangerous position of the pedestrian should have been seen. Such evidence is admissible, not as a basis of recovery, but to overcome the defense. *Scholl v. Grayson*, 147 Mo. App. 652, 127 S. W. 415, 418.

Competency of Witness. An eyewitness of the accident was held to be competent to express his opinion of the distance in which the automobile could have been stopped, where it was shown that the witness had had considerable experience in observing the speed of machines, had attended races, had ridden in automobiles every day and read their speedometers, had been with the Diamond Rubber Company in its repair department for years, and that the said company left to his judgment all matters based on speed. *Scholl v. Grayson*, 147 Mo. App. 652, 127 S. W. 415, 418.

⁹ *Thomson v. Cowles*, 174 Fed. 571, 98 C. C. A. 417.

be placed in a position of danger by the vehicle continuing to proceed.¹

The skidding of a motor omnibus upon a greasy road, where there is no negligence on the part of the driver and the skidding is due to the precautions taken by the driver to bring the vehicle to a sudden stop in order to avoid an accident, is no evidence that the particular vehicle is a nuisance for the placing of which on the highway the owners are liable if an accident occurs.²

§ 156. Inference from Collision between Vehicle and Pedestrian.

A collision between a motor vehicle and a pedestrian raises no presumption that the operator of the car was neg-

¹If the driver of an automobile can see that a pedestrian is to be necessarily between two automobiles as they pass each other within the narrow space of four or five feet and can see that an emergency exists in which the pedestrian is required to act quickly, and that it is imminently dangerous for the pedestrian to be enclosed between the two cars as they pass each other, and that in avoiding the other car the pedestrian probably will be struck or must be struck by the first mentioned car, it is his duty to stop, if he can, the moment he sees such dangerous situation. *New York Transp. Co. v. Garside*, 157 Fed. 526, 85 C. C. A. 285, modifying 146 Fed. 588.

²*Parker v. London General Omnibus Co.*, 100 L. T. N. S. 409, 73 J. P. 283, 25 Times L. Rep. 429, *affirmed* 101 L. T. N. S. 623, 7 Local Gov. Rep. 1111, 53 Sol. J. 867. In this case the action was brought on behalf of a small boy who, it appeared, stepped off the pavement into the road in front of a motor omnibus belonging to the appellants. If the driver of the omnibus had gone on he would have knocked down the little boy. In these circumstances he took all the means at his disposal to stop the motor omnibus at once before it could go over the boy. Because he did this the omnibus skidded. It swung round, and as it swung round the side of it, somewhere about the centre, knocked the boy down. Negligence was charged, it being alleged that the driver had unskillfully driven and managed the omnibus. The court said: "Here we have evidence of a sudden emergency necessitating the sudden putting on of the brakes and the

ligent,³ and whether he was or not is ordinarily a question for the jury.⁴

§ 157. Duties of Pedestrians Generally.

A traveler on foot has the same right to the use of the public highway as an automobile or any other vehicle,⁵ and, like the drivers of vehicles, he is required to exercise reasonable care to avoid a collision.⁶ To this end he must use all of his senses.⁷ Pedestrians are obliged to look for automobiles,⁸ and ordinarily a failure to do so is negligence;⁹

locking of the wheels and a sudden turning of the omnibus, and we have evidence that in such circumstances a motor omnibus will skid. I do not think that that is evidence that this motor omnibus was of such a character that it was necessarily a danger and consequently a nuisance."

³ See *Seaman v. Mott*, 127 App. Div. 18, 110 N. Y. Supp. 1040.

⁴ *Evidence of Negligence Held to Present Question for Jury.*—*Johnson v. Coey*, 237 Ill. 88, 92, 86 N. E. 678, 21 L.R.A. (N.S.) 81, *affirming* 142 Ill. App. 147; *Banks v. Braman*, 188 Mass. 367, 74 N. E. 594; *Brewster v. Barker*, 129 App. Div. 724, 113 N. Y. Supp. 1026.

⁵ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 377.

⁶ The person having the management of the automobile, and the traveler on foot, are both required to use such reasonable care, circumspection, prudence, and discretion as the circumstances require; an increase of care being required where there is an increase of danger. And both are bound to such reasonable caution as ordinarily careful and prudent persons would exercise under like circumstances. *Cecchi v. Lindsay*, (Del.) 75 Atl. 377.

A blind man walking upon the highway is bound to use ordinary care only, in determining which the jury should consider the blindness, other infirmities, and all circumstances bearing upon the question as to what care was reasonably necessary to insure his safety. *Apperson v. Lazro*, 44 Ind. App. 186, 87 N. E. 97, 99, 88 N. E. 99.

⁷ *Simeone v. Lindsay*, 6 Penn. (Del.) 226, 65 Atl. 778.

⁸ *Simeone v. Lindsay*, 6 Penn. (Del.) 224, 227, 65 Atl. 778; *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 377; *Brewster v. Barker*, 129 App. Div. 724, 113 N. Y. S. 1026; *Kauffman v. Nelson*, 225 Pa. St. 174, 73 Atl. 1105.

⁹ *Wilkins v. New York Transp. Co.*, 52 Misc. 167, 101 N. Y. Supp. 650.

nor is a pedestrian relieved of responsibility merely because he did not see an automobile which collided with him.¹ But a pedestrian, when lawfully using the public ways, is not required to be continuously looking or listening to ascertain whether motor cars are approaching, under the penalty on failure to do so, of being presumed negligent if he is injured.² The rule requiring persons to look and listen when crossing railroad tracks does not apply to highways traversed by motor vehicles.³

Suddenly stepping in front of an approaching automobile ordinarily is negligence on the part of a pedestrian,⁴ but negligence is not necessarily inferred in such a case. Where

¹ *Kauffman v. Nelson*, 225 Pa. St. 174, 73 Atl. 1105.

² *Hennessey v. Taylor*, 189 Mass. 583, 76 N. E. 224, 4 Ann. Cas. 396, 3 L.R.A.(N.S.) 345. "There is no imperative rule of law requiring a pedestrian when lawfully using the public ways to be continuously looking or listening to ascertain if auto cars are approaching, under the penalty that upon the failure so to do, if he is injured, his own negligence must be conclusively presumed." *Gerhard v. Ford Motor Co.*, 155 Mich. 618, 119 N. W. 904, 20 L.R.A.(N.S.) 232, citing *Hennessey v. Taylor*, *supra*.

³ *Hennessey v. Taylor*, 189 Mass. 583, 76 N. E. 224, 4 Ann. Cas. 396, 3 L.R.A.(N.S.) 345.

⁴ *Starr v. Schenck*, 25 Montg. Co. Rep. (Pa.) 18, 3 Lehigh Co. L. J. 166. See *Polsky v. New York Transp. Co.*, 96 App. Div. 613, 88 N. Y. Supp. 1024, wherein it was held that the driver of an automobile injuring a pedestrian near some piles of building material from between which the pedestrian suddenly emerged when the car was close upon him was not negligent and plaintiff was guilty of contributory negligence. And in *Seaman v. Mott*, 127 App. Div. 18, 110 N. Y. Supp. 1040, the court held that a judgment for a pedestrian injured by a collision with an automobile should be reversed as against the weight of evidence where the plaintiff, who was his own sole witness, did not show that the chauffeur was inattentive, or drove improperly, or that the car deviated suddenly from its course, or changed its speed, or ran at an improper speed, and the defendant's witnesses testified in effect that the plaintiff walked into contact with the car.

a person walks directly in front of an approaching street car and is struck at the instant he sets his foot between the rails it may be that there is but one inference which reasonably can be drawn from the facts, and that is the inference of negligence. This rule, however, is applicable only to the crossing of railroad tracks, where the duty of care is absolute because of known danger in the particular place. The track has a permanent location and the movement of cars is restricted thereto. The position of the track is usually known to the traveler, as is also the fact that cars are likely to be moving rapidly on the rails. But it is not practicable to apply this doctrine to the use of motor vehicles on the public streets of a city. These vehicles have no prescribed course or direction or time of appearing and are not to be distinguished from other conveyances in respect to the rights of persons lawfully using the streets.⁵

The act of a pedestrian in running in front of an automobile as a result of terror, caused by discovering the automobile near him, is not voluntary, and it is not negligence.⁶ Likewise a pedestrian who is placed in a situation of danger between two automobiles approaching from opposite directions is not necessarily guilty of contributory negligence if acting in the emergency he moves backward to avoid one automobile and steps in front of the other.⁷

Negligence on the part of a pedestrian, which contributed to an accident, wherein he was injured by a motor vehicle, generally speaking defeats a recovery.⁸ In this class of

⁵ *Dugan v. Lyon*, 41 Pa. Super. Ct. 52.

⁶ *Navailles v. Dielmann*, 124 La. 421, 50 So. 449, 134 Am. St. Rep. 508.

⁷ *New York Transp. Co. v. Garside*, 157 Fed. 525, 85 C. C. A. 285, modifying 146 Fed. 588.

⁸ *Simeone v. Lindsay*, 6 Penn. (Del.) 224, 228, 65 Atl. 778.

cases contributory negligence is usually a question for the jury.⁹

§ 158. Pedestrian Crossing Street or Highway.

A pedestrian has an equal right upon a crosswalk with the driver of a motor vehicle,¹ and he has a right to expect that the driver, by operating the car at a controllable speed, will avoid running him down while he is on his original course across the street.² However, a pedestrian must look to see whether motor vehicles are approaching before starting across the street;³ but the rule requiring persons

⁹ *Contributory Negligence Held to Be Question for Jury.*—*Banks v. Braman*, 188 Mass. 367, 74 N. E. 594; *Gerhard v. Ford Motor Co.* 155 Mich. 618, 119 N. W. 904, 20 L.R.A.(N.S.) 232.

¹ *Miller v. New York Taxicab Co.*, 120 N. Y. Supp. 899.

² *Diamond v. Cowles*, 174 Fed. 571, 98 C. C. A. 417.

³ *Starr v. Schenck*, 25 Montg. Co. Rep. (Pa.) 18.

Failure to Look Inferred from Failure to See Car.—One who has been run into by an automobile cannot recover for the injuries received where he testifies that before stepping upon the roadway he looked and did not see the vehicle although he had an unobstructed view for two hundred feet and was struck before he had walked five feet. Such testimony would imply that the vehicle was going a hundred and twenty miles an hour, and the impossibility shows that the pedestrian did not look with the care required by the law. *O'Reilly v. Davis*, 136 App. Div. 386, 120 N. Y. Supp. 883.

Evidence Presenting Question for Jury.—In *Tiffany v. Drummond*, 168 Fed. 47, 93 C. C. A. 469, it was contended that the court should have directed a verdict in favor of the defendant on the theory that the plaintiff himself was negligent. It appeared that the plaintiff did not continue on the crosswalk, but crossed the street at an angle so as to reach the opposite side about seventy feet above the corner. He looked both ways for approaching vehicles just as he started, but it was not quite clear how often he looked in the direction from which the automobile was approaching after he started and became engrossed in the enterprise of crossing the roadbed of the car track which was torn up. That he did not so look within a few seconds before the accident was apparent from the fact that he did

crossing railroad tracks to "stop, look, and listen" is not applicable, it seems, to an ordinary street crossing in a city.⁴ And a pedestrian about to cross a city street is not guilty of contributory negligence as matter of law because of his failure to watch for the approach of an automobile which is on the wrong side of the street and close to the curb.⁵ If a pedestrian sees an automobile approaching near him upon a street which he purposes crossing he must continue to observe its movements,⁶ but if he decides that it is sufficiently distant to enable him safely to pass, he is not

not see the automobile which struck him. The court held that the question of his negligence under all the circumstances was clearly one for the jury to pass upon under proper instructions as to his rights and obligations.

⁴ *Tiffany v. Drummond*, 168 Fed. 47, 93 C. C. A. 469. And see *supra*, § 157.

⁵ *Bradley v. Jaeckel*, 65 Misc. 509, 119 N. Y. Supp. 1071. In *Benoit v. Miller*, (R. I.) 67 Atl. 87, the evidence of the plaintiff's witnesses was to the effect that when the automobile was coming southerly on the street, seventy-two feet away, the plaintiff's intestate, walking slowly in an easterly direction, had crossed beyond the middle of the street, and that at that point the plaintiff's intestate looked back towards the sidewalk he had left and was immediately struck by the left lamp of the automobile. The court said: "If this testimony is true, the intestate had reached a point where he had a right to suppose that the automobile would avoid him by turning to the right, or, if it were going at a lawful rate of speed, in the direction it was pursuing would pass behind him. In such circumstances contributory negligence cannot be attributed to the intestate."

⁶ If a person approaching a street crossing, being warned of the coming of an automobile, looks and sees the car coming towards the crossing, a short distance (not more than a hundred and thirty feet) away, and thereupon proceeds to cross the street in front of it without again looking or paying any attention to it, he is guilty of contributory negligence, and cannot recover for injuries caused by a collision with the machine; for, being warned, and seeing the automobile coming towards the crossing he intends to pass over, it is his duty to observe the position of the vehicle sufficiently to avoid a collision if possible. *McCormick v. Hesser*, 77 N. J. L. 173, 71 Atl. 55. See also *West v. New York Transp. Co.*, 47 Misc. 603, 94 N. Y. Supp. 426.

guilty of negligence as a matter of law, it seems, although a collision proves that his judgment was erroneous.⁷ Drivers of motor vehicles upon approaching crossings are bound to take notice that pedestrians may be thereon or entering thereon,⁸ and if they see a pedestrian crossing the street they

⁷ *Hennessey v. Taylor*, 189 Mass. 583, 76 N. E. 224, 4 Ann. Cas. 396, 3 L.R.A. (N.S.) 345.

⁸ In *Peters v. Cuneo*, 123 App. Div. 740, 108 N. Y. Supp. 264, it appeared that the plaintiff, emerging from behind a moving wagon, was struck and injured by an automobile coming in the opposite direction. The court examined the evidence and held that a verdict for the plaintiff was not against the weight thereof.

Turning Corners.—Where an automobile was running at a rapid rate of speed and turned a corner without slacking its speed, and without giving any signal of its approach, and ran over a boy eight years old, it was held that the evidence was sufficient to justify a finding that the driver of the automobile was guilty of negligence in its operation and that the question of the contributory negligence of the deceased was for the jury. The court said: "A person, whether adult or infant, had the right to assume that the defendant in the operation of the automobile would exercise care and respect the rights of pedestrians when it had occasion to turn the corner of the street. Due care in its operation required, under such circumstances, that the vehicle should be slowed down and operated with caution. At such place the operator was bound to take notice that people might be at the crossing or entering thereon, and this obligation upon the part of the operator of the machine was one which a pedestrian would have a right to assume would be observed. Upon the proof the jury were authorized to find that the operator of this machine exercised no care whatever in turning the corner of the street where the accident happened." *Buscher v. New York Transp. Co.*, 106 App. Div. 493, 94 N. Y. Supp. 798. In *Spina v. New York Transp. Co.*, 96 N. Y. Supp. 270, the plaintiff, who was injured by the defendant's automobile, testified that he was proceeding north along a certain street approaching an intersecting street, and that he had taken three steps into the intersecting street in order to cross when he was struck by the automobile. He testified that he did not see the automobile until it struck him. It appeared that the car came south along the right side of the street upon which the pedestrian was walking and turned into the intersecting way in a westerly direction. It was held that the evidence was sufficient to show negligence on the

must not rely upon the activity of such individual to avert a collision. The following has been held to be a correct statement of the law: "The pedestrian has just as much right on the highway as the automobile, and the driver of the automobile must pay attention to pedestrians who are on the highway, and if it assumes to take the risk of a pedestrian, who is crossing the highway, getting out of its course, and the pedestrian does not increase his speed after the blowing of the horn or any other signal, but keeps on his speed, it is the duty of the automobile to slacken its speed and to take no risks as to the pedestrian increasing his speed." ⁹

part of the defendant and freedom from contributory negligence on the part of the plaintiff.

Running an automobile upon the curb where the plaintiff is standing in the act of stepping upon the roadway subjects the driver to liability for injuries inflicted. *May v. Allison*, 30 Pa. Super. Ct. 50.

⁹ *Diamond v. Cowles*, 174 Fed. 571, 573, 98 C. C. A. 417, holding the evidence in this case to disclose negligence on the part of the driver. In *Weil v. Kreutzer*, 134 Ky. 563, 121 S. W. 471, 24 L.R.A.(N.S.) 557, the evidence showed without contradiction that the appellant was going along the street in his automobile; that he saw the appellee crossing the street some seventy-five or one hundred feet distant, and that he sounded his horn as a warning to the appellee. Thereupon the appellee undertook to go back across the street to the side from which he originally came, but in the meantime the appellant had changed his course, and this brought him again in the direction of the appellee. The appellee, seeing this, again changed his course, but the appellant, in order to avoid running over the appellee, also changed the course of his automobile. The court said: "What happened was a confusion of minds of the parties. Each was trying to avoid the other, but each was getting in the way of the other, and as a result the collision took place. The negligence of the defendant consisted in his failure to recognize the great danger that would accrue to the plaintiff from the collision. He had no right, it seems to us, after he saw the confusion of mind which was taking place between him and the plaintiff, to continue zigzagging in the street at the imminent hazard of colliding with the pedestrian."

Negligence and contributory negligence are questions for the jury, ordinarily, in actions arising from collisions between motor cars and pedestrians crossing the street.¹

§ 159. Pedestrian Walking or Standing in Highway.

Standing in the highway is not necessarily negligence preventing an individual from recovering for injuries sustained by being struck by an automobile. In an early case a verdict for the plaintiff was attacked on the ground that the plaintiff himself was negligent. The evidence showed that he was standing in the roadway conversing with a friend, who had stopped his wagon at the point where the accident happened, for the purpose of engaging in conversation with the plaintiff. The court said: "We see nothing negligent in the plaintiff's action. Certainly he had no reason to suppose that, merely because he was standing in the roadway, he would be run down by the recklessness of the driver of an automobile. He was lawfully there, and any person using the highway was bound to take notice of him, and to use care not to injure him, and the plaintiff had a right to assume that this would be done."² Nor is a recovery barred by the fact that at the time of the accident the pedestrian was walking in the part of the highway devoted to the use of vehicles.³

¹ *Negligence and Contributory Negligence Held to Be for Jury.*—Weil v. Kreutzer, 134 Ky. 563, 121 S. W. 471, 24 L.R.A.(N.S.) 557; Gross v. Foster, 134 App. Div. 243, 118 N. Y. Supp. 889; Baker v. Close, 137 App. Div. 529, 121 N. Y. Supp. 1079; Benoit v. Miller, (R. I.) 67 Atl. 87.

² Kathmeyer v. Mehl, (N. J.) 60 Atl. 40.

³ Apperson v. Lazro, 44 Ind. App. 186, 87 N. E. 97, 98, 88 N. E. 99. See also Bellevue v. S. C. Lowe Supply Co., 200 Mass. 237, 86 N. E. 301. In Burvant v. Wolfe, (La.) 52 So. 1025, it appeared that the eleven-year-old son of the plaintiffs was struck by the

The strict law of the road by which one traveling in a vehicle is required to turn to the right upon meeting another vehicle does not obtain as to pedestrians who may be encountered in the highway.⁴

§ 160. Duty of Drivers to Persons Boarding or Leaving Street Cars.

The driver of a motor vehicle is bound to take notice of the fact that passengers on street cars will be likely to leave such cars at intersecting street crossings,⁵ and in approaching and passing a car which he sees standing at a regular stopping place, it is his duty to exercise very great care to

automobile of the defendant, and died as a result thereof. The street upon which defendant was driving his automobile was asphalted. It had no gutters and its surface was less than a foot lower than the sidewalk. As the defendant entered the block, there was at the lower end of it a large crowd gathered around a police patrol wagon, and more people were hastening towards this centre of excitement. The defendant slackened speed to six or seven miles an hour; and as the crowd was densest on the right-hand side of the street, where the patrol wagon stood, he steered towards the left side, hoping to be able to pass—tooting his horn, so as to give warning to the crowd to open a passage for him. The accident occurred half way down the block, and two to four feet from the left-hand side curbing. The court said: "There can be no question of contributory negligence in the case. Cases of persons going upon railroad tracks have no analogy. The boy's attention was fixed upon the excitement ahead of him, as everybody else's was. He was simply following others who had just preceded him, going in the same direction. If he had thought of the matter at all, he would have had the right to assume that an automobile or other fast-moving private vehicle would not run him down."

But where the plaintiff was walking in the roadway beside his team when he was struck by the defendant's automobile, a verdict for the plaintiff was set aside. Blouse v. Geesey, 35 Pa. Co. Ct. 181.

⁴ Apperson v. Lazro, 44 Ind. App. 186, 87 N. E. 97, rehearing denied 44 Ind. App. 195, 88 N. E. 99.

⁵ Liebrecht v. Crandall, 110 Minn. 454, 126 N. W. 69.

avoid injury to persons going to or from it.⁶ He must change the course of his automobile so as to pass the car at a distance, reduce the speed of the vehicle, or even bring it to a stop.⁷ And if he passes rapidly by the street car he is guilty of negligence.⁸ But no obligation rests upon him

⁶ *New York Transp. Co. v. Garside*, 157 Fed. 521, 85 C. C. A. 285, *modifying* 146 Fed. 588; *Kauffman v. Nelson*, 225 Pa. St. 174, 73 Atl. 1105.

⁷ Where a street car stopped and the conductor stepped off to one side of the car, and just as he had done so, or was in the act of doing so, he was struck by an automobile coming from the direction that the car had come from, it was held that the negligence of the motorist was established by the evidence, and that the plaintiff's contributory negligence was properly left to the jury. The court said: "That the automobile was proceeding at a rate of from three to five miles an hour appears substantially without dispute, and since the operator of the automobile, from his position, must have had a clear view ahead of him, and admittedly did have, the only fair inference from the fact of the collision is that he either recklessly or negligently persisted in his course. Ordinary prudence would certainly have required him either to halt, or to deviate from his course into the open space on his right, in which event the collision would have been avoided." *Caesar v. Fifth Ave. Coach Co.*, 45 Misc. 331, 90 N. Y. Supp. 359.

⁸ *Irwin v. Judge*, 81 Conn. 500, 71 Atl. 572.

Approaching a car at a speed of twenty miles per hour, the moment it stops to permit passengers to alight, has been characterized as "an act of extreme recklessness." *Liebrecht v. Crandall*, 110 Minn. 454, 126 N. W. 69.

Speed of Eight or Ten Miles.—The plaintiff was struck by the defendant's automobile as he was following a street car which was about to stop on the opposite side of a street to permit him to board it. The defendant was driving his automobile at from eight to ten miles an hour on one of the principal thoroughfares of the city. He was unable to see the crossing as he approached it, because the street car was between him and the crossing, and, instead of stopping his automobile until the car passed, he merely changed his direction, so as to go around the passing car, when he was brought face to face with the plaintiff at a distance too short to prevent a collision. The court held that the defendant was grossly negligent, rendering him liable for the plaintiff's injuries. *Gregory v. Slaughter*, 124 Ky. 345, 99 S. W. 247, 8 L.R.A.(N.S.) 1228, 124 Am. St. Rep. 402.

to reduce the speed of his automobile upon passing a car which is in motion. And this is especially true where the vehicles are proceeding upon a road in the open country. Under such circumstances the driver of the motor vehicle rightfully cannot be deemed to assume that a passenger will leap from the car in the path of his vehicle.⁹

§ 161. Duty of Persons Boarding or Leaving Street Cars.

A person intending to board a street car, who takes a position in the street alongside the car tracks, is not necessarily negligent because he fails to see an automobile before it collides with him, since his attention naturally is directed toward the approaching street car.¹ But he has no right

Speed of Six or Seven Miles.—And it has been said: "It cannot be possible that the owner or driver of an automobile may pass a car from which he knows passengers are alighting and others are being received, stepping from such car onto the street, in the ordinary way, and going upon the car from such street, and attempt to pass them all, going at the rate of six or seven miles an hour, without being guilty of negligence." *Brewster v. Barker*, 129 App. Div. 724, 113 N. Y. Supp. 1026.

That a driver slackened the speed of his automobile to two miles an hour was held in *Arseneau v. Sweet*, 106 Minn. 257, 119 N. W. 46, not to be a complete defense in case a collision occurs. The court said that the question is, "Did he exercise ordinary care in avoiding a collision?"

⁹ *Starr v. Schenck*, 25 Montg. Co. Rep. (Pa.) 18, 3 Lehigh Co. L. J. 166.

¹ In *Arseneau v. Sweet*, 106 Minn. 257, 119 N. W. 46, the court said of a pedestrian who was struck by an automobile while waiting for a street car: "She had a right to walk out from the curb to the car tracks, in anticipation of the approaching car, and, if she took a position in the street within three or four feet of the car tracks with the intention of boarding the approaching car, she was not required absolutely to keep a lookout for vehicles at that point. . . . She was not guilty of contributory negligence simply because she did not look

to take such a position and remain oblivious to his surroundings.² A person intending to alight from a street car is not bound to anticipate that an automobile will be propelled at a rapid rate so close to the car that the exposure of a part of his body beyond the line of the car will subject him to peril of life or limb.³ And he is not guilty of contributory negligence as a matter of law in failing to look for approaching automobiles before alighting.⁴ So a failure of a passenger in alighting from a street car to look in the direction from which an automobile is approaching, following the car, is not of itself sufficient to charge him, as a matter of law, with contributory negligence.⁵ And a passenger, following other passengers who have already alighted from a street car at an established stopping point, is not guilty of contributory negligence as a matter of law in fail-

and did not see or hear the approaching machine. Her attention was naturally concentrated on the street car, and she was entitled to assume that others would exercise due care with reference to her position." And in *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 772, the court said: "The facts present a case where the plaintiff is about as nearly without fault as any which we have had occasion to review. It appears that plaintiff, a lady about thirty years of age, was on her road from Union Station to her home. She had taken her position only a moment before at the usual stopping place of the street cars, in order to enter the car when it topped. The street car was then approaching and in near proximity to her. Plaintiff's attention was directed to the approaching car, as was entirely proper. The automobile was not coming toward her, but on the contrary was standing at rest against the pavement, eight or ten feet away. Plaintiff had certainly no reason to suppose that it would be run backwards upon her without warning, by the careless act of defendant's servant."

² *Arseneau v. Sweet*, 106 Minn. 259, 119 N. W. 46.

³ *Dugan v. Lyon*, 41 Pa. Super. Ct. 52.

⁴ *Where the construction of the street car obstructs the view of a person about to alight therefrom he is not under obligation to look out along the side of the car before stepping down into the street.* *Dugan v. Lyon*, 41 Pa. Super. Ct. 52.

⁵ *Liebrecht v. Crandall*, 110 Minn. 454, 126 N. W. 69, 70.

ing to look to right and left to discover approaching vehicles before leaving the car step.⁶ But where a person about to alight from a street car sees an automobile twenty feet distant and approaching, and is struck by it immediately after alighting, he is guilty of contributory negligence.⁷ And if a passenger steps or jumps from a moving car, even though the car has but little speed, and the momentum of the car carries him forward, so that he cannot look back and see an approaching motor vehicle, and he steps directly in front of the vehicle the moment he attempts to cross the highway, he is negligent.⁸

§ 162. Functions of Court and Jury.

In cases arising from collisions between automobiles and persons boarding or alighting from street cars the questions whether the driver of the automobile was guilty of negligence and whether the pedestrian was contributorily negligent are frequently held to be questions of fact for the determination of the jury.⁹

§ 163. Excessiveness of Verdicts for Pedestrians Injured by Motor Vehicles.

In actions for injuries to pedestrians sustained in collisions with motor vehicles, there seems to be a marked ten-

⁶ *Brewster v. Barker*, 129 App. Div. 724, 113 N. Y. Supp. 1026 (evidence held to support verdict for passenger).

⁷ *Vilicki v. New York Transp. Co.*, 65 Misc. 43, 119 N. Y. Supp. 220.

⁸ *Starr v. Schenck*, 25 Montg. Co. Rep. (Pa.) 18, 3 Lehigh Co. L. J. 166.

⁹ *New York Transp. Co. v. Garside*, 157 Fed. 521, 85 C. C. A. 285, modifying 146 Fed. 588; *Arseneau v. Sweet*, 106 Minn. 257, 119 N. W. 46; *Liebrecht v. Crandall*, 110 Minn. 454, 126 N. W. 69; *Brewster v. Barker*, 129 App. Div. 724, 113 N. Y. Supp. 1026; *Kauffman v. Nelson*, 225 Pa. St. 174, 73 Atl. 1105; *Dugan v. Lyon*, 41 Pa. Super. Ct. 52.

dency on the part of the courts to sustain verdicts against the objection that they are excessive,¹ although cases are not lacking in which verdicts have been reduced.²

¹ \$400.—In *Weiskopf v. Ritter*, (Ky.) 97 S. W. 1122, the jury awarded the pedestrian four hundred dollars. He testified that he was injured seriously, that he suffered great pain, and was still suffering pain and inconvenience from the effects of the injury at the date of the trial, which occurred some two months or more after the date of the injury. His ankle, at the date of the trial, still bore evidences of the injury. The court said: "If the jury placed any estimate at all upon the suffering which he endured because of the injury, to say nothing of the loss of time which he sustained, the sum awarded was not excessive."

\$1,000.—A verdict of \$1,000 was held not to be excessive where the plaintiff was struck by the defendant's automobile and partially crippled for life. *Weil v. Kreutzer*, 134 Ky. 563, 121 S. W. 471, 24 L.R.A. (N.S.) 557.

\$2,500.—The plaintiff, who was struck by an automobile, had his hand badly cut and one of his fingers broken and was severely bruised. He was confined to his home for several weeks, and his hand was permanently injured. It was held that a verdict of \$2,500 was not excessive. *Gregory v. Slaughter*, 124 Ky. 345, 99 S. W. 247, 8 L.R.A. (N.S.) 1228, 124 Am. St. Rep. 402.

\$3,250.—A woman sixty years old was knocked down by an automobile and dragged. Her thigh bone was fractured in two places. She suffered excruciatingly for months. The injury would cause her to hobble with a stick, instead of walk, for the rest of her life. She was put to large expenses. The court held that a verdict of \$3,250, approved by the trial judge, would not be disturbed as excessive. *Navailles v. Dielmann*, 124 La. 421, 50 So. 449, 134 Am. St. Rep. 508.

\$3,500.—A verdict of \$3,500 was held to be a conservative estimate of damages where the female plaintiff was knocked down and several bones broken, and a permanent injury to one leg resulted. *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 774.

A verdict for \$1,500 was increased to \$3,000 in *Burvant v. Wolfe*, (La.) 52 So. 1025, where it appeared that the plaintiff's child of eleven years was killed in an automobile accident.

² A verdict of \$8,150 was reduced to \$2,500 where it appeared that plaintiff was bruised, one shoulder dislocated, and two ribs fractured, but that no permanent injuries resulted. *Kathmeyer v. Mehl*, (N. J.) 60 Atl. 40.

CHAPTER IX.

MUTUAL RIGHTS AND DUTIES OF OPERATORS OF MOTOR VEHICLES, AND OTHERS, ON HIGHWAY (continued).

Other Persons.

- § 164. Persons Working in Street.
- 165. Duty of Children to Exercise Care.
- 166. Playing in Street as Constituting Negligence.
- 167. Care Imposed upon Drivers by Presence of Children.
- 168. Determination of Questions of Negligence and Contributory Negligence.
- 169. Bicyclists.
- 170. Drivers of Other Motor Vehicles.
- 171. Street Car Operatives Generally.
- 172. Driving Motor Vehicle Along Street Car Tracks.
- 173. Crossing Street Car Tracks.
- 174. Duty of Motormen of Street Cars.
- 175. Use of Safety Appliances by Driver of Motor Vehicle.
- 176. Failure to Comply with License or Registration Requirements.
- 177. Injury to Operatives of Street Cars.
- 178. Injury to Passengers in Street Cars.

§ 164. Persons Working in Street.

Persons lawfully engaged in performing work in the street or highway, while bound to exercise reasonable care to protect themselves from injury by passing vehicles, yet are not bound to such a degree of vigilance as will result in a neglect of their duties. They may rely upon drivers to avoid injuring them. This is especially true in the case of street sweepers, who are constantly upon the street. Drivers are charged with notice of their presence and must demean

themselves accordingly.¹ A person working in the street who is facing in the direction from which motor vehicles may be expected to come is not necessarily negligent in failing to see a vehicle which approaches from behind him.² And a person working in the street is not necessarily negligent, upon perceiving an automobile approaching, in remaining at his post instead of getting out of the path of the car.³ And a violation of an ordinance by a person working in the street will not debar him from recovering for injuries sustained by being struck by an automobile unless the violation of the ordinance contributed to the injuries.⁴

¹ Whether a sweeper was negligent was held to be a question for the jury in *O'Donnell v. Lange*, (Mich.) 127 N. W. 691.

² *A street railway employee who is engaged in oiling the tracks of the company and whose duties require him to move backward along the rail which he is oiling, and who performs this duty in such a manner as to face in the direction from which any car or vehicle obeying the law of the road would approach, is not guilty of contributory negligence in not looking every minute for automobiles approaching from his rear; and in case he is struck by an automobile, under such circumstances, it is for the jury to determine what would have been the conduct of a person of ordinary prudence under the circumstances, and a finding that he was not guilty of contributory negligence is conclusive.* *King v. Green*, 7 Cal. App. 473, 94 Pac. 777.

³ The plaintiff's intestate was one of a number of persons who were doing work connected with a manhole in the street. The manhole was protected by a rack. The deceased saw the automobile approaching, but remained near the rack. The court said: "There is no rigid rule of law which made it negligence *per se* for the deceased to remain at the rack after he saw the approaching automobile, even though he was aware that the occupants of the automobile had not observed him or the obstructing rack at the manhole, and was aware that he might be injured by remaining where he was. The law only required him to act as a reasonably prudent person would have acted under similar circumstances." *Case v. Clark*, (Conn.) 76 Atl. 518, (holding evidence sufficient to show negligence of the chauffeur).

⁴ *Case v. Clark*, (Conn.) 76 Atl. 518, (employee working near manhole in street neglected to place red light on rack protecting manhole).

Verdicts in actions for injuries to street laborers by collision with automobiles have been sustained in several instances against the objection of excessiveness.⁵

§ 165. Duty of Children to Exercise Care.

It is the duty of infants to exercise care to avoid injury from automobiles,⁶ the degree of care being not that required of persons of mature years,⁷ but only such care as children of the same age, of ordinary care and prudence, are accustomed to exercise under like circumstances.⁸ A child nine years of age cannot be held to the same degree of care that would be exacted of a mature person, and it is for the jury to say whether he exercised a degree of care commensurate with his years and intelligence.⁹ But a boy of the age of seven years, of normal mental capacity, is not as a matter of law altogether exempted from the exercise of care and prudence when he appreciates the danger of an approaching automobile.¹

§ 166. Playing in Street as Constituting Negligence.

Playing in the street is not necessarily contributory negligence on the part of a child who is struck by an automo-

⁵ A verdict for \$1,200 was held to be not excessive where the plaintiff, a street sweeper, sixty-three years of age, earning \$1.50 per day, was struck, knocked down, and injured. *Hiroux v. Baum*, 137 Wis. 197, 118 N. W. 533, 19 L.R.A.(N.S.)332.

And \$7,000 was held to be not excessive in an action for injuries to a street railway employee engaged in oiling the tracks of the railway company. *King v. Green*, 7 Cal. App. 473, 94 Pac. 777.

⁶ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 378.

⁷ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 378; *Gross v. Foster*, 134 App. Div. 243, 118 N. Y. Supp. 889.

⁸ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 378.

⁹ *Gross v. Foster*, 134 App. Div. 243, 118 N. Y. Supp. 889.

¹ *Verdon v. Crescent Automobile Co.*, (N. J.) 76 Atl. 346.

bile,² but becoming so engrossed in play as to run immediately in front of an approaching car may constitute lack of care. It is contributory negligence in a thirteen-year-old boy to become so engrossed in play as to run across a city street and immediately in front of an approaching automobile without thought to look to see whether such a machine or any other vehicle is approaching.³ And where, in an action to recover for the death of plaintiff's intestate, it appears that an automobile was proceeding at a moderate rate on the proper side of the street, that it was a large machine, that the boy who was killed must have seen it had he looked, that the roadway was clear in front of it, that the boy, interested in catching a ball, suddenly ran from the sidewalk, where he was in safety, immediately in front of the machine, at a distance of from four to twelve feet, and that the automobile was stopped so that its wheels skidded and proceeded only five feet beyond the boy's body, the negligence of the defendant is not shown, but rather contributory negligence on the part of the decedent.⁴

§ 167. Care Imposed upon Drivers by Presence of Children.

When the operator of a motor vehicle realizes the presence of children in the highway, he is required to exercise increased exertion to avoid a collision.⁵

² *Turner v. Hall*, 74 N. J. L. 214, 64 Atl. 1060.

For a child six years old to be playing on the street of a city is not of itself contributory negligence, but whether it is or not where the child is run over by an automobile is a question for the jury. *Thies v. Thomas*, 77 N. Y. Supp. 278.

³ *Zoltovski v. Gzella*, 159 Mich. 620, 124 N. W. 527, 528, 26 L.R.A. (N.S.) 435, 134 Am. St. Rep. 752.

⁴ *Jordan v. American Sight-seeing Coach Co.*, 129 App. Div. 313, 113 N. Y. Supp. 786.

⁵ *Thies v. Thomas*, 77 N. Y. Supp. 276.

§ 168. Determination of Questions of Negligence and Contributory Negligence.

Ordinarily it is for the jury to say whether an infant who has sustained an injury from an automobile, and the driver of the car, both exercised the care required under the circumstances.⁶ In one of the earlier cases it appeared that the plaintiff, a boy about twelve years of age, was playing in the roadway of a street, throwing a ball and running to catch it. The defendant's automobile, driven by himself, was coming along the street at full speed, in the middle of the street, giving no warning by horn, bell, whistle, or other sound, and when it approached the boy, it "twitched" and hit him. The boy was knocked down and injured. The defendant moved for a nonsuit on the ground of contributory negligence, which motion was denied. It was held that the question of contributory negligence was properly submitted to the jury.⁷

⁶ *Cecchi v. Lindsay*, (Del.) 75 Atl. 376, 378.

⁷ *Turner v. Hall*, 74 N. J. L. 214, 64 Atl. 1060. In *Lynch v. Shearer*, (Conn.) 75 Atl. 88, it appeared that the defendant was managing an automobile which was proceeding along one of the principal streets of a city at an excessive rate of speed. The automobile reached a bridge crossing over a railroad, without slowing down, and was proceeding on the left-hand side of the street. A boy of eleven (the plaintiff's intestate) who was on this bridge, on the left-hand sidewalk, started to run across the street, and was almost immediately struck by the automobile, and fatally injured. When he started, the automobile was about one hundred and seventy-six feet distant. It was not brought to a stop until it had traveled over sixty feet from the point of the collision. It had given a signal of its approach when about four hundred feet distant, but none thereafter. The boy did not look either way as he started to run across. Two other boys, with whom he had been playing, called to him, "Look out!" He thereupon threw up his hands, just before he was struck. The automobile was not on the side of the street for vehicles as to which, coming from the east, one crossing the street might be expected, in the ordinary course of things, to be on the watch. The cries of the lad's companions did not indicate the nature of the danger.

§ 169. Bicyclists.

Drivers of automobiles and bicyclists have an equal right to use the street for the purpose of travel,⁸ and each in the use thereof is bound to exercise reasonable care and to have a reasonable regard for the rights of the other.⁹ A bicyclist is obligated to look for approaching motor vehicles,¹

The court held that under such circumstances, whether the boy exercised such care as could be reasonably expected on the part of one of his age, judgment, and experience would be a question for the jury to decide.

Injury to Infant of Five Years—Dismissal Held Erroneous.—*Dultz v. Fischlowitz*, 104 N. Y. Supp. 357, was an action to recover damages for personal injuries sustained by an infant, who at the time of the accident was five years of age. The infant was knocked down by an automobile of the defendant, while he was crossing from the south to the north side of Thirty-fifth street, on the west side of Seventh avenue, in New York city. The child left his father's place of business on Seventh avenue, between Thirty-third and Thirty-fourth streets, to go to a bakery on the same avenue, between Thirty-fifth and Thirty-sixth streets, to purchase some cake. The testimony of the father of the child was that before the child left his store he cautioned him to look out for cars, automobiles, and wagons. The testimony showed that the automobile was going rapidly, and that no signal of its approach was given. At the close of the plaintiff's case the defendant was called to the stand but was asked no questions and gave no testimony. The court held that the plaintiff had made a *prima facie* case and hence that a judgment dismissing the complaint was error necessitating a reversal.

⁸ See *House v. Cramer*, 134 Ia. 374, 112 N. W. 3, 13 Ann. Cas. 461, 10 L.R.A. (N.S.) 655.

⁹ *Weber v. Swallow*, 136 Wis. 46, 116 N. W. 844.

A count in a declaration was held good on demurrer, in *Hughes v. Counable*, 5 Penn. (Del.) 523, 64 Atl. 72, as showing an exercise of care by the plaintiff who was riding a bicycle, and negligence of the defendant in driving a motor car.

Negligence and Contributory Negligence Held to Be Questions for Jury.—*Rogers v. Phillips*, (Mass.) 92 N. E. 327; *Reed v. Martin*, 160 Mich. 253, 125 N. W. 61.

¹ In an action to recover for injuries received by one riding a bicycle in a westerly direction along a city street, through being struck by an automobile driven north on an intersecting avenue, the plaintiff testi-

but he is not necessarily negligent because he attempts to cross a street without first looking or listening to ascertain whether a vehicle is approaching.² He has a right to assume, in the absence of anything to the contrary, that motorists using the highway will exercise a proper degree of care toward him.³ Thus where it appeared that the defendant, driving his automobile upon a street in a city, came up behind the plaintiff who was proceeding in the same direction on a bicycle, and, according to the preponderance of the evidence, ran into the plaintiff's wheel and upset him and crushed his leg, the court held that the jury properly found the defendant guilty of negligence.⁴

Negligence on the part of a bicyclist is not apparent from the fact that at the time of a collision with an automobile

fied that the only time that he looked in the direction from which the automobile approached was when he was three or four feet east of the building line on the southeast corner. At this point he claimed that he had a clear view. The court held that the plaintiff had failed to bear the burden of showing freedom from contributory negligence, because either he did not look with care, or when he looked he did not have a clear view for a sufficient distance to discover the approach of vehicles from which danger might be apprehended, in which case he should have looked after emerging beyond the obstructions. *McCarraher v. Proal*, 114 App. Div. 470, 100 N. Y. Supp. 208.

² *Rogers v. Phillips*, (Mass.) 92 N. E. 327. In this case it appeared that while the deceased was riding his bicycle on the right side of the road near the curbstone, and while the automobile was behind him going in the same direction, he determined to retrace his steps and for that purpose began to cross the road; that the automobile was so far behind him that it reasonably might have been expected that the driver would see him, and if so could and would by the exercise of proper care so manage the automobile as to avoid a collision. The court held that crossing the road under such circumstances would not necessarily be negligent as matter of law, but that the question of the negligence of the act would be one of fact for the jury.

³ *Rogers v. Phillips*, (Mass.) 92 N. E. 327.

⁴ *Heath v. Cook*, (R. I.) 68 Atl. 427. To like effect is *Russell v. Knapp*, 14 Ont. W. Rep. 98.

he was riding in a street which was obstructed by debris.⁵ And according to some courts the fact that the bicyclist at the time of the accident was proceeding at a greater speed than that permitted by law is merely evidence of negligence, not negligence *per se*.⁶ But by riding so near to a street car that he is unable to see an automobile in time to avoid colliding therewith after it emerges from behind the passing car, he is guilty of negligence.⁷

Upon the question of speed, which is nearly always a subject of controversy in collision cases, the circumstances ensuing upon the collision are of much probative force. In a recent case a witness for the plaintiff bicyclist expressed the opinion that the defendant was driving at a speed of twenty miles per hour. The defendant denied this, and asserted that he was proceeding at the rate of about seven miles. As a result of the collision the plaintiff was thrown only a few feet. The court said: "Had the defendant's motor been running at twenty miles an hour when it struck the wheel of the bicycle, the plaintiff would have been hurled many yards distant."⁸ On the other hand, the fact that the motor car collided with a bicyclist with such force

⁵ A bicycle rider who is struck and injured by an automobile on a city street cannot be said to be guilty of contributory negligence because it appears that he was riding his bicycle on a street which was greatly obstructed by the debris from buildings destroyed by a conflagration, and which was greatly narrowed by that cause, where it also appears that he walked for some distance and when the road got clear mounted his bicycle, and was struck by an automobile coming suddenly from behind a street car. *Olsen v. Levy*, 8 Cal. App. 487, 97 Pac. 76.

⁶ *Scott v. Dow*, (Mich.) 127 N. W. 712, 17 Detroit Leg. N. 744, so holding with respect to the driver of a motor cycle. See *supra*, § 99, as to whether a violation of law is negligence.

⁷ *Weber v. Swallow*, 136 Wis. 46, 116 N. W. 844.

⁸ *Russell v. Knapp*, 14 Ont. W. Rep. 98.

as to shove him from six to eight feet indicates that it was proceeding rapidly.⁹

Verdicts against motorists have been sustained in this class of cases as being supported by the evidence¹ and not excessive in amount.²

⁹ *McCarragher v. Proal*, 114 App. Div. 475, 100 N. Y. Supp. 208.

¹ *Campbell v. Dreher*, (Ky.) 110 S. W. 353, 355. In *McGee v. Young*, 132 Ga. 606, 64 S. E. 689, it appeared that the scene of the collision was at the intersection of two streets in a city. The parties were approaching each other upon a street extending north and south. The roadway between the curbings was twenty-eight feet wide. The plaintiff, riding his bicycle, was on the east side of the street, and was going northward, and the defendant was driving his automobile southward on the west side of the street. On the trial the plaintiff testified that before he reached the intersecting street he observed the defendant's automobile coming from the opposite direction. Just as he was approaching such street he observed that the defendant began to turn his automobile into it, and he undertook to provide against this change in direction, when the defendant suddenly changed his course, and ran into him. The defendant and his wife, who occupied the automobile, testified that the defendant never attempted to turn into the intersecting street, but that the plaintiff deflected his bicycle across the course of the automobile and collided with it while the defendant was doing his best to avoid the changed course of the bicycle. It was urged by counsel for the defendant that the evidence failed to show any liability, and that the court erred in refusing to grant a new trial, on the ground of insufficient evidence to support the verdict. The court held that the verdict was authorized by the evidence, saying: "By their verdict they found that the proximate cause of the collision was the defendant's negligence. In other words, they accepted the plaintiff's version of the occurrence. Their opportunity of seeing and hearing the witnesses while testifying gives them a superior advantage over us in determining the truth of the case. Unless errors of law have been committed, their verdict will be left to stand."

² In *Campbell v. Dreher*, (Ky.) 110 S. W. 353, it appeared that the defendant's automobile ran into the plaintiff, a boy of sixteen years, and knocked him down. The doctor who attended the plaintiff testified that he was severely bruised in the side and about the legs, that he had a knot upon his side about the size of a goose egg, and

§ 170. Drivers of Other Motor Vehicles.

The drivers of motor vehicles owe a duty to each other to obey the rules of the road,³ and they are held to a stricter obedience, it seems, than drivers of lighter and slower moving vehicles.⁴

When two cars meet, it is the duty of each, as far as practicable, to yield to the other the space and opportunity necessary for its safe and convenient passage.⁵ In the case of two cars traveling in the same direction the front one has the superior right and may maintain its position in the centre of the highway if there is sufficient space on its left to

suffered from shock; that the pain was very severe; and that the plaintiff was confined to his bed for some days. The plaintiff testified that he was in bed for three weeks, and could not work for a month, and suffered severe pain in his side and legs. The court held that in view of this evidence a verdict of five hundred dollars was not excessive.

³ *Approaching Intersecting Highways*.—A motor car which was being driven along a highway came into collision, at a point where the highway was intersected by a side road, with another motor car, which emerged from the side road. It was held that the collision was caused solely by the fault of the driver of the latter motor car, first in not approaching the highway with his car under such control as to be prepared for any traffic he might find there; and secondly, in not turning his car along the highway so as to avoid colliding when he perceived that he could not cross. *Macandrew v. Tillard*, [1909] Sc. Ct. Sess. 78.

⁴ It has been said that in the application of the rules of the road "it is manifest that what would be construed as reasonable care and safe conduct in the case of a light and slow-moving wagon oftentimes would not amount to such conduct in the case of heavy and rapidly moving cars." *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A. (N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137. If a collision between a heavy touring car and a light runabout results in but little injury to the latter vehicle, then the touring car could not have been going very rapidly. *Bayles v. Plumb*, 126 N. Y. Supp. 426.

⁵ *Bayles v. Plumb*, 126 N. Y. Supp. 425.

enable the approaching car safely and conveniently to pass.⁶ If the position of the forward car in the centre of the highway does not leave such room for passage, then it must upon request or equivalent notice, if practicable and safe, so turn aside as to leave the necessary room.⁷ If at the moment there is not sufficient room in which to turn aside, it is the right of the forward car, and it is the duty of the rear car, to wait until a place is reached where this may be done. Ordinarily a car preceding another is not under obligation to stop in order to let the rear car pass, but may wait until a place is reached where such passage may be

⁶ *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A.(N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137.

The statute upon this subject providing that "any such person so operating a motor vehicle shall, on overtaking any such . . . other vehicle, pass on the left side thereof, and the . . . driver of such . . . other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left," is to be construed reasonably with reference to the right of all parties. It has been said that it "certainly does not contemplate or permit reckless driving of a fast motor vehicle whereby slower ones are wrongfully crowded or frightened out of the road. Neither should it be so construed as to encourage aggravating conduct upon the part of the slower-going machine in front whereby the faster one is unnecessarily and unreasonably held back and annoyed." *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A.(N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137.

⁷ *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A.(N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137.

In *Earle v. Pardington*, 116 N. Y. Supp. 675, it appeared that the defendant's automobile, which was followed by plaintiff's car, diminished speed, whereat plaintiff sounded his horn. Shortly thereafter defendant's car stopped on a hill when plaintiff's automobile was about six feet in the rear. Brakes were applied by plaintiff, but a collision occurred nevertheless. The court held that a dismissal of the complaint on the ground that plaintiff had not shown himself to be free from contributory negligence was erroneous.

accomplished in safety without any stop. Under some circumstances, however, it may become the duty of the overtaken automobile to come to a stop and permit the other to go ahead. It has been said: "A country highway might be such that for miles there would be no proper opportunity for one car to pass another while both were in motion, but plenty of opportunity for such passage if the forward car pulled aside and stopped for a few seconds. Under such circumstances, we think a jury might very well find that it was extremely unreasonable for a slow-moving car to hold up one in the rear desiring to pass it, by refusing upon reasonable request to give such an opportunity as has been suggested for passage."⁸

§ 171. Street Car Operatives Generally.

The relative rights and duties of operators of street cars and drivers of motor vehicles are not the same as those of the former and drivers of vehicles drawn by horses. The use and operation of the ordinary horse-drawn vehicle have been known for so many years that every man is charged with knowledge as to the movement and the ordinary speed of such vehicles. Consequently if a horse and wagon happen to be upon the street car track the motor-man of an approaching car is bound by the knowledge of how fast the horse can or will travel, and he must operate and control his car with that fact taken into consideration. The movement of an automobile has no such certain quantities. The speed of such a vehicle is anywhere from a few miles an hour to a very high rate, and it is within common experience that they glide off and on tracks, pass around street cars and run on the track again, and easily

⁸ *Mark v. Fritsch*, 195 N. Y. 282, 88 N. E. 380, 22 L.R.A.(N.S.) 632, 133 Am. St. Rep. 800, *affirming* 126 App. Div. 920, 110 N. Y. Supp. 1137.

keep ahead of a car moving at an ordinary speed. It is generally known that it is not easy for a person to get out of a street car track with a horse and wagon, nor can it be accomplished with despatch, ordinarily; the wheels of the wagon are apt to slide. Motor vehicles, on the other hand, because of their power and the tires with which their wheels are equipped, can turn on and off the street railway tracks easily and quickly.⁹

Of course the owner of an automobile is not entitled as a rule, to recover from a street car company for damages done to his vehicle in a collision with a street car if the operatives of the car were not negligent,¹ or if he was guilty of contributory negligence.²

§ 172. Driving Motor Vehicle Along Street Car Tracks.

While the mere use of a car track by the driver of a motor vehicle is not negligence as a matter of law,³ yet driving thereon imposes upon such driver a greater degree of care.⁴ Upon meeting a street car it is the duty of the driver to leave the tracks while still at a safe distance.⁵ But

⁹ *Watts v. Stroudsburg Pass. R. Co.*, 34 Pa. Co. Ct. 373.

¹ The evidence in *Sharpnack v. Des Moines City R. Co.*, (Ia.) 115 N. W. 475, was held to be insufficient to show negligence on the part of a street-car motorman whose car collided with the plaintiff's automobile. See also *Hirsch v. Interurban St. R. Co.*, 94 N. Y. Supp. 330; *Dale v. Denver City Tramway Co.*, (C. C. A.) 173 Fed. 787. The evidence was held to show negligence in *Bondy v. New York City R. Co.*, 56 Misc. 602, 106 N. Y. S. 31; and see *Garfield v. Hartford, etc., St. R. Co.*, 79 Conn. 458, 65 Atl. 598, on subsequent appeal 80 Conn. 260, 67 Atl. 890.

² *Mobile Light, etc., Co. v. Hartwell*, 163 Ala. 77, 50 So. 883; *Wiggers v. Cincinnati Traction Co.*, 17 Ohio Dec. 798.

³ *Baldie v. Tacoma R. etc., Co.*, 52 Wash. 75, 100 Pac. 162.

⁴ *Baldie v. Tacoma R. etc., Co.*, 52 Wash. 75, 100 Pac. 162.

⁵ If a motorist having the ability to turn off the tracks at a safe distance from a street car, continues thereon until so near the car that

driving upon street car tracks does not put upon a motorist the burden of keeping a lookout to the rear to the exclusion of his duty to look ahead. The duty to look ahead is paramount.⁶ At night the red rear light of the automobile is in itself a warning upon which the driver has a right to rely for protection from oncoming street cars, which, although they have a paramount right of way, must assert it in some accepted manner, as by ringing a bell or sounding a whistle, so that the driver may clear the way for the one to whom it more properly belongs.⁷ If the automobile has become stalled upon the tracks it is the duty of the driver to warn the motorman of an approaching street car.⁸ In overtaking a street car the driver of a motor vehicle is required to pass upon the side prescribed by law.⁹

the automobile skids down the rails and collides therewith, he is guilty of negligence. *Pantages v. Electric Co.*, 55 Wash. 543, 104 Pac. 629.

⁶ *Foley v. Forty-second St., etc., R. Co.*, 49 Misc. 649, 97 N. Y. S. 958; on subsequent appeal 52 Misc. 183, 101 N. Y. S. 780; *Baldie v. Tacoma R., etc., Co.*, 52 Wash. 75, 100 Pac. 162. Yet a failure to keep a lookout to the rear has been held to be contributory negligence. *Speakman v. Traction Co.*, 42 Pa. Super. Ct. 561.

⁷ *Baldie v. Tacoma R., etc., Co.*, 52 Wash. 75, 100 Pac. 162.

⁸ Occupants of an automobile who trust to the vigilance of a street car motorman to avoid a collision with their automobile which has become stalled upon the car track, making no attempt to put themselves in a place of safety or to give warning to the motorman until it is too late to avoid a collision, are guilty of negligence and are not entitled to recover for injuries received. *Lawrence v. Fitchburg, etc., St. R. Co.*, 201 Mass. 489, 27 N. E. 898; and see *Hause v. Lehigh Valley Transit Co.*, 38 Pa. Super. Ct. 614 (stopping too close to track).

⁹ A law declared that the expression "carriage" as therein contained should include a wagon, cart, or other vehicle, and it was provided that every driver of a motor car "shall, when meeting any carriage, horse, or cattle, keep the motor car on the left or near side of the road, and when passing any carriage, horse, or cattle proceeding in the same direction, keep the motor car on the right or off side of the same." The court held a tramcar running on tramway rails in a highway to be a

§ 173. Crossing Street Car Tracks.¹

Before attempting to cross street car tracks the driver of an automobile is obliged to look for approaching street cars,² especially if he has reason to anticipate the approach of a street car;³ but the strict rule regarding the degree of watchfulness to be observed by drivers crossing the general railroads and interurban railways does not apply to drivers in crossing street car tracks in the street of a city.⁴ Not only must a driver look for approaching cars, but he also must have his vehicle under complete control before attempting to cross the tracks.⁵

If a driver sees a car approaching it is his duty to slacken speed or stop before a collision occurs.⁶ But the fact that

"carriage" within the meaning of the above law, and, therefore, that a motor car, when passing a tramcar proceeding in the same direction, must pass it on the right or off side thereof. *Burton v. Nicholson*, [1909] 1 K. B. (Eng.) 397, 78 L. J. K. B. 295, 100 L. T. N. S. 344.

¹ Crossing railroad tracks, see *infra*, chapter X.

² *Garrett v. People's R. Co.*, 6 Penn. (Del.) 34, 64 Atl. 254; *McCreery v. United R. Co.*, 221 Mo. 18, 120 S. W. 24; *Lindley v. Fries Mfg., etc., Co.*, (N. C.) 69 S. E. 274.

Where a driver backed his automobile upon the street car track without looking it was held that he was guilty of contributory negligence barring a recovery for injuries received by a collision with a street car. *Birch v. Athol St. R. Co.*, 198 Mass. 257, 84 N. E. 310.

³ *Birch v. Athol, etc., St. R. Co.*, 198 Mass. 257, 84 N. E. 310.

⁴ *Union Traction Co., v. Howard*, (Ind.) 87 N. E. 1106. In this case it appeared that the appellee's intestate in his automobile approached a street crossing at the rate of four or five miles per hour, without stopping to look or listen; that he was familiar with the surroundings, and knew that cars were liable to pass down the farther track, and that his view of such cars was obstructed by cars standing upon the nearer track. The court held that negligence was not disclosed, but that the question of negligence *vel non* was for the jury, and affirmed a judgment against the railroad company.

⁵ *Lindley v. Fries Mfg., etc., Co.*, (N. C.) 69 S. E. 274.

⁶ *Garrett v. People's R. Co.*, 6 Penn. (Del.) 34, 64 Atl. 254; *Murphy v. New York City R. Co.*, 58 Misc. 237, 108 N. Y. S. 1021.

the driver of a motor vehicle saw an approaching street car when he was several feet from the car track does not disclose negligence contributing to an ensuing collision, in the absence of evidence showing the facility with which such a motor vehicle can be stopped. It may have been that it was impossible for the driver to have stopped his vehicle before it ran upon the tracks, or the vehicle may have been of such power, and hence capable of such sudden speed, that it would have appeared safer to attempt to cross the track than to attempt to stop.⁷

§ 174. Duty of Motormen of Street Cars.

If the motorman of the street car sees the automobile upon the track, and there is nothing to prevent the occupants of the automobile from seeing the approaching car, such motorman has a right to assume that the automobile will be turned off the track and out of danger in time to avoid a collision. While a motorman is entitled to indulge in this assumption until the danger of a collision becomes imminent,⁸ yet he must exercise reasonable care to avoid a collision,⁹ and to this end under some circumstances he must have his car under control.¹

⁷ *Union Traction Co. v. Howard*, (Ind.) 87 N. E. 1106.

⁸ *Minneapolis St. R. Co., v. Odegaard*, 182 Fed. 58; *Pantages v. Seattle Electric Co.*, 55 Wash. 453, 104 Pac. 629; *Dale v. Denver City Tramway Co.*, (C. C. A.) 173 Fed. 787.

⁹ *Lawrence v. Fitchburg, etc., St. R. Co.*, 201 Mass. 489, 87 N. E. 898; *Hull v. Seattle, etc., R. Co.*, (Wash.) 110 Pac. 804. See also *King v. Consolidated Traction Co.*, 33 Pittsb. L. J. N. S. (Pa.) 138. Where plaintiff's automobile was struck in the rear by a street car as the automobile was being turned off the street car track, the court held a dismissal of the complaint to be error. *Lehman v. New York City R. Co.*, 107 N. Y. Supp. 561.

¹ *Robbins v. Dartmouth, etc., St. R. Co.*, 203 Mass. 546, 89 N. E. 1039; *Winter v. British Columbia Elec. R. Co.*, (Brit. Col.) 9 West. L. Rep. 117 (absence of brake held to be negligence). In

In approaching a street crossing the motorman of a street car is required to have his car under control so as to avoid a collision with vehicles that may be on the highway at the crossing.² And drivers approaching a street crossing have a right to presume that such precautions will be taken by the operators of street cars as will protect them from collision and injury. The fact that a street car, after the motorman had attempted to stop it, struck a motor vehicle crossing the car tracks with such force as to rend the vehicle in pieces and to scatter portions of it to some distance, indicates that the car must have been proceeding at very great speed. But if the car was stopped promptly it must have been running slowly.³

§ 175. Use of Safety Appliances by Driver of Motor Vehicle.

If the driver of an automobile is not familiar, as required by statute, with the safety appliances with which his vehicle

Chadbourne v. Springfield St. R. Co., 199 Mass. 574, 577, 85 N. E. 737, the plaintiff's automobile collided with a street car of the defendant company while the vehicles were crossing a bridge. It might have been found that the motorman was driving the car which ran into the automobile at a rate of nearly fifteen miles an hour to and upon the bridge. This bridge was so narrow that it was impossible to pass with a vehicle between a car and the guard rail of the bridge; and the approaches to the bridge were at so sharp a grade that, from one side, a car coming from the other side could not be seen until both cars were substantially on the bridge. Another car of the defendant was coming in the opposite direction, at a very low rate of speed, and a vehicle turning out from behind it, as the plaintiff's automobile did, necessarily had to come upon the track on which the colliding car was running. There was considerable travel over the bridge. The court held that under these circumstances a jury might say that due care required the motorman to keep his car under sufficient control to avoid running into a vehicle approaching in the manner that the plaintiff's automobile did.

² *Union Traction Co. v. Howard*, (Ind.) 87 N. E. 1106.

³ *Union Traction Co. v. Howard*, (Ind.) 87 N. E. 1106; *Campbell v. St. Louis Transit Co.*, 121 Mo. App. 406, 98 S. W. 58.

is equipped and therefore is unable to use them, or if, being familiar with them, he fails to use in a reasonable and prudent manner the brakes of his automobile so as to prevent a collision with a street car, he is guilty of negligence.⁴

§ 176. Failure to Comply with License or Registration Requirements.

The view has been expressed that the driver of an automobile who has failed to comply with the requirement of registration is not entitled to recover for injuries caused by the ordinary negligence of the motorman of a street car.⁵

§ 177. Injury to Operatives of Street Cars.⁶

The conductor of a street railway car has a right to stand upon the running board of his car for the purpose of collecting the fares of passengers, and if he is knocked therefrom by the negligent act of the driver of an automobile he is entitled to recover from the operator of the vehicle, if it also appears that he was not guilty of negligence contributing to the accident.⁷

⁴ Garrett v. People's R. Co., 6 Penn. (Del.) 34, 64 Atl. 254.

⁵ Dudley v. Northampton St. R. Co., 202 Mass. 443, 89 N. E. 25, 23 L.R.A.(N.S.) 561. As to effect of failure to comply with license or registration requirements generally, see *supra*, § 114. See also Chase v. New York Cent., etc., R. Co., (Mass.) Boston Transcript of March 2, 1911, applying the rule in case of an automobile crossing a steam railroad.

⁶ As to street railway employees working upon the tracks, see *supra*, § 164. And as to street car operatives getting on or off cars, see *supra*, § 160.

⁷ Dudley v. Kingsbury, 199 Mass. 258, 85 N. E. 76, holding negligence and contributory negligence to have been questions for the jury under the facts of this case.

§ 178. Injury to Passengers in Street Cars.

Likewise, a passenger in a street car is entitled to recover from the operator of an automobile for injuries sustained by reason of negligence of the latter in colliding with the street car.⁸

⁸ *Johnson v. Coey*, 237 Ill. 88, 92, 86 N. E. 678, 21 L.R.A. (N.S.) 81, *affirming* 142 Ill. App. 147.

CHAPTER X.

CROSSING RAILROAD TRACKS.

- § 179. Duty of Exercising Care.
- 180. Looking and Listening.
- 181. Speed upon Approaching Crossings.
- 182. Knowledge of Locality.
- 183. Attempting to Cross Ahead of Train.
- 184. Negligence of Railroad Company.
- 185. Functions of Court and Jury.

§ 179. Duty of Exercising Care.

Drivers of motor vehicles in attempting to cross railroad tracks are bound to exercise care and precaution, in view of the surrounding circumstances, to avoid collision with approaching cars or trains.¹ And to this end motor vehicles possess peculiar advantages. When a driver of horses attempts to pass over a crossing and is suddenly confronted by a train, difficulties face him to which the driver of a motor vehicle is not subjected. The driver of a horse cannot drive close to the track, or stop there, without risk of his horse becoming frightened, shying, and possibly overturn-

¹*Standard of Care.*—The driver of the automobile is bound to exercise that degree of caution which an ordinarily careful and prudent person would exercise under all the conditions. *Garrett v. People's R. Co.*, 6 Penn. (Del.) 29, 64 Atl. 254, 257. It has been said, however: "Those who attempt to cross a railroad track at a public highway crossing must exercise ordinary care, in view of all the surrounding circumstances, to avoid receiving an injury by collision with trains, but, in the very nature of things, the standard of such care cannot be absolutely fixed." *Pendroy v. Great Northern R. Co.*, 17 N. D. 433, 117 N. W. 531, citing 7 Am. & Eng. Enc. of Law (2d ed.) pp. 427, 436.

ing his vehicle. He cannot well leave his horse standing, and if he goes forward to the track to get an unobstructed view and look for coming trains he may have to lead his horse with him. These precautions the motor vehicle driver can take, carefully and deliberately, and without the nervousness communicated by a frightened horse. It thus appears that a motor car driver has the opportunity, if the situation is one of uncertainty, to settle that uncertainty on the side of safety, with less inconvenience, no danger, and more surely than the driver of a horse.²

This duty of exercising care exists with a view not only to the safety of the occupants of the motor vehicle,³ but also to that of persons who may be upon the cars of the railroad company. It has been said: "With the coming into use of the automobile, new questions as to reciprocal rights and duties of the public and that vehicle have and will continue to arise. At no place are those relations more important than at the grade crossings of railroads. The main consideration hitherto with reference to such crossings has been the danger to those crossing. A ponderous, swiftly moving locomotive, followed by a heavy train, is subjected to slight danger by a crossing foot passenger, or a span of horses and a vehicle; but when the passing vehicle is a ponderous steel structure, it threatens not only the safety of its own occupants, but also those on the colliding train. And when to the perfect control of such a machine is added the factor of high speed, the temptation to dash over a track at terrific speed makes the automobile, unless carefully controlled, a new and grave element of crossing danger. . . . The law, both from the stand-

² New York Cent. etc., R. Co., v. Maidment, 168 Fed. 21, 93 C. C. A. 413, 21 L.R.A.(N.S.) 794.

³ New York Cent., etc., R. Co., v. Maidment, 168 Fed. 21, 93 C. C. A. 413, 21 L.R.A.(N.S.) 794.

point of his own safety and the menace his machine is to the safety of others, should, in meeting these new conditions, rigidly hold the automobile driver to such reasonable care and precaution as go to his own safety and that of the traveling public." ⁴

§ 180. Looking and Listening.

It clearly is the duty of the driver of a motor vehicle to look for an approaching car or train before going upon a railroad crossing,⁵ and if there are obstructions so as to affect his view of the tracks he must be especially careful.⁶ If the driver of an automobile stops and looks for an approaching train at a point so far distant from the tracks that his view of the tracks is restricted, and neglects to stop at a point nearer the tracks upon which a train may be expected to approach, he is chargeable with a lack of reasonable care precluding a recovery for injuries sustained by collision of a train with his automobile.⁷

Likewise, before crossing a railroad track a motorist is bound to use his ears in order to discover if possible whether a train is approaching.⁸

⁴ New York Cent., etc., R. Co., v. Maidment, 168 Fed. 21, 93 C. C. A. 413, 21 L.R.A.(N.S.) 794.

⁵ Brommer v. Pennsylvania R. Co., 179 Fed. 577, 103 C. C. A. 135; Garrett v. People's R. Co., 6 Penn. (Del.) 29, 64 Atl. 254, 257; Turck v. New York Cent., etc., R. Co., 108 App. Div. 142, 95 N. Y. Supp. 1100, (evidence held to show negligence on the part of plaintiff's intestate); Noakes v. New York Cent., etc., R. Co., 121 App. Div. 716, 106 N. Y. Supp. 522, *affirmed* without opinion 195 N. Y. 543, 88 N. E. 1126. As to the duty of passengers in a motor vehicle, see *infra*, chapter XV.

⁶ Garrett v. People's R. Co., 6 Penn. (Del.) 29, 64 Atl. 254, 257.

⁷ Brommer v. Pennsylvania R. Co. 179 Fed. 577, 103 C. C. A. 135; New York Cent., etc., R. Co., v. Maidment, 168 Fed. 21, 93 C. C. A. 413, 21 L.R.A.(N.S.) 794.

⁸ Noakes v. New York Cent., etc., R. Co., 121 App. Div. 716, 106

§ 181. Speed upon Approaching Crossings.

Moreover the driver of a motor vehicle should not approach a railroad crossing at a greater speed than is consistent with safety or his control of the car.⁹

§ 182. Knowledge of Locality.

And in approaching a crossing with which he is familiar, a driver is bound to avail himself of his knowledge of the locality and the presence of danger.¹

§ 183. Attempting to Cross Ahead of Train.

A deliberate attempt to cross ahead of an approaching train is beyond doubt gross carelessness.² So if a motorist having obtained a view of the tracks for only a short distance takes the chance of dashing across, he is guilty of negligence.³

§ 184. Negligence of Railroad Company.

The negligence of the railroad company must be established satisfactorily, of course, in order to warrant a recovery by the occupant of a motor vehicle for injuries sustained by a collision with one of the company's cars or trains.⁴

N. Y. Supp. 522, *affirmed* without opinion 195 N. Y. 543, 88 N. E. 1126.

⁹ Garrett v. People's R. Co., 6 Penn. (Del.) 29, 64 Atl. 254, 257.

¹ Garrett v. People's R. Co., 6 Penn. (Del.) 29, 64 Atl. 254, 257.

² Turck v. New York Cent., etc., R. Co., 108 App. Div. 142, 95 N. Y. Supp. 1100.

³ New York Cent., etc., R. Co., v. Maidment, 168 Fed. 21, 93 C. C. A. 413, 21 L.R.A.(N.S.) 794; Spencer v. New York Cent., etc., R. Co., 123 App. Div. 789, 108 N. Y. S. 245.

⁴ In Ward v. Brooklyn Heights R. Co., 119 App. Div. 487, 104 N. Y. Supp. 95 (*affirmed* without opinion 190 N. Y. 559, 83 N. E. 1134) reversing on reargument 115 App. Div. 104, 100 N. Y. Supp. 671, it appeared that the plaintiff's intestate, a passenger in an automobile

§ 185. Functions of Court and Jury.

In actions to recover damages for injuries sustained by motorists whose cars have been struck by railroad cars at crossings, the questions whether the defendant railroad company was negligent or the plaintiff was contributorily negligent, frequently become questions for the jury's determination.⁵ The rule here, as in other cases, is that where the

driven by another person, was killed by a collision of the vehicle with a train operated by the defendant at a crossing where the view was obstructed. The evidence was examined and held to warrant a finding that the defendant was negligent.

⁵ Louisville, etc., R. Co. v. Eckman, 137 Ky. 331, 125 S. W. 729; La Belle v. Rhode Island Co., (R. I.) 73 Atl. 306. In an action to recover damages for injury done to the plaintiff's automobile by a collision with the defendant's train at a public crossing, it appeared that the plaintiff's daughter was driving the automobile, and that the plaintiff and others were riding therein at the time of the accident. The proof showed that at the time of the accident the defendant's train crew was and for some time prior thereto had been engaged in switching in its yards at the city where the accident occurred, but that plaintiff and his daughter, although they had been pleasure riding about the city for some time, did not know that such switching was being done. In approaching the crossing the view of the occupants of the car was obstructed by buildings and other structures. The plaintiff and his daughter testified that in approaching the crossing they looked and listened for trains, but heard none. Just prior to reaching the crossing, the gear of the automobile was changed from high to low speed, and the noise which it made was about the same as that of an ordinary lumber wagon going at the same speed, which was about five miles per hour. The train which collided with the automobile was being backed over the crossing, the first car—the one which came in contact with the automobile—being a flat car loaded with iron. The court held that the question of the contributory negligence of plaintiff and his daughter was properly submitted to the jury. Pendroy v. Great Northern R. Co., 17 N. D. 433, 117 N. W. 531. In Sanders v. Pennsylvania R. Co., 225 Pa. St. 105, 73 Atl. 1010, 133 Am. St. Rep. 857, which was an action for injuries sustained by a motorist at a railroad crossing, it appeared that the plaintiff was riding in an automobile operated by his son-in-law. As the machine approached a grade crossing in a city it was seen that the safety gates were raised, and that no watchman was in

evidence is conflicting as to material facts, or, in case the facts are undisputed, if different conclusions might be drawn therefrom by the minds of reasonable men, the questions of negligence and contributory negligence should be submitted to the jury.

attendance. The evidence for the plaintiff tended to show that as the automobile approached the crossing it was stopped, or came nearly to a dead stop, but that on a signal from a trainman it started over the crossing, and was struck by coal cars which were being backed on one of the tracks. There was also evidence that no warning of the approach of the cars was given. The court held that the plaintiff was not guilty of contributory negligence as a matter of law, but that the evidence made a case for the jury.

CHAPTER XI.

CONDITION OF HIGHWAYS WITH RESPECT TO MOTOR VEHICLES.

- § 186. Safety and Convenience for Travel Generally.
- 187. Degree of Safety.
- 188. Special Provision for Use by Motor Vehicles.
- 189. Care Imposed upon Drivers Respecting Defects.
- 190. Noncompliance with License or Registration Requirements as Affecting Recovery for Injuries Due to Defects.
- 191. Traction Engines Crossing Bridges.
- 192. Putting Down Planks for Engine to Cross on.

§ 186. Safety and Convenience for Travel Generally.

While municipal corporations are not insurers of travelers using their streets and highways, they are bound ordinarily to exercise due care to keep such ways safe and free from dangerous defects.¹ If street improvements are in progress the municipality is bound to take such precautions in the matter of erecting barriers and placing lights as may

¹ *The fright and shying of a gentle horse at an automobile* driven with ordinary care and at a reasonable rate of speed constitutes one of those events in the proper use of a highway calling for its maintenance in a safe condition; and the injury which may be done to a traveler by an unsafe condition, in connection with such event, is a danger to which travelers are exposed by defects in the highway, and for which a municipality is liable when such danger ripens into actual damage. *Upton v. Windham*, 75 Conn. 288, 53 Atl. 660, 96 Am. St. Rep. 197; *Scofield v. Poughkeepsie*, 122 App. Div. 868, 107 N. Y. S. 767. But for injuries caused by defects in private or unopened ways the city is not liable. *Ottolengui v. Seattle*, (Wash.) 109 Pac. 206.

be reasonably necessary to make travel upon the highway safe.²

§ 187. Degree of Safety.

This duty is owed to drivers of motor vehicles although there seems to be some uncertainty as to the degree of safety that must be attained. A municipality is no doubt bound to maintain its streets and highways in a condition that is safe for travel by horse-drawn vehicles,³ and this is the measure of its duty to motorists according to some authorities, it seems;⁴ but the prevailing view is that municipalities are bound to keep their ways reasonably safe and con-

² *Baltimore v. Maryland*, 166 Fed. 641, 92 C. C. A. 335. In this case it appeared that an automobile traveling on a city street ran into a deep excavation at a curve in the street and that a passenger was killed. There was evidence tending to show that the arrangement of lights was such that, to one approaching the excavation from the direction from which the automobile came, the lights appeared to be on separate sides of the street, and the driver, being misled thereby, drove his machine between them and into the excavation. It was held that the question of the negligence of the city was for the jury. See also *Gedroice v. New York*, 109 App. Div. 176, 95 N. Y. S. 645.

³ Where a defect in the highway is such as would be dangerous to ordinary vehicles, a recovery may be had by a motorist who has sustained damage by reason thereof. *Baker v. Fall River*, 187 Mass. 53, 72 N. E. 336.

Automobile within Meaning of Term "Carriage."—In this aspect an automobile cannot be said not to be a "carriage" within the meaning of the statute requiring municipalities to keep their highways reasonably safe for the travel of carriages. *Baker v. Fall River*, 187 Mass. 53, 72 N. E. 336.

⁴ In *Molway v. Chicago*, 239 Ill. 489, 88 N. E. 485, 16 Ann. Cas. 424, 23 L.R.A. (N.S.) 543, the court referred to "the rule laid down by some courts (*Leslie v. Grand Rapids*, 120 Mich. 28, 78 N. W. 885; *Sutphen v. North Hempstead*, 80 Hun 409, 30 N. Y. Supp. 128; *Richardson v. Danvers*, 176 Mass. 413, 57 N. E. 688, 50 L.R.A. 127, 79 Am. St. Rep. 320; *Rust v. Essex*, 182 Mass. 313, 65 N. E. 397), that a cyclist must take the road as he finds it, provided it is safe for an ordinary horse-drawn vehicle, and that in the absence of legislation the courts will not require the public authorities to keep streets and

venient for travel generally, including that properly undertaken by means of motor vehicles.⁶ So in some localities, at least, it is the duty of the highway authorities to maintain the ways under their care of a construction and strength sufficient to bear the passage of traction engines of a character and weight that are not extraordinary.⁷

§ 188. Special Provision for Use by Motor Vehicles.

However if streets and highways are reasonably safe and convenient for travel generally, the municipalities charged with their maintenance are not liable for a failure to make special provisions, required only for the safety and convenience of persons using motor vehicles.⁷

highways safe for bicycles, automobiles, and vehicles of like character," and expressed a doubt as to the soundness thereof.

⁶ *Molway v. Chicago*, 239 Ill. 486, 489, 88 N. E. 485, 16 Ann. Cas. 424, 23 L.R.A.(N.S.) 543, citing *Doherty v. Ayer*, 197 Mass. 241, 83 N. E. 677, 14 L.R.A.(N.S.) 816, 125 Am. St. Rep. 355.

⁷ *Atty.-Gen. v. Scott*, [1905] 2 K. B. (Ehg.) 160, 93 L. T. N. S. 249, 74 L. J. K. B. 803, 69 J. P. 109, 21 Times L. Rep. 211, 3 Local Gov. Rep. 272.

⁷ *Doherty v. Ayer*, 197 Mass. 241, 245, 83 N. E. 677, 14 L.R.A.(N.S.) 816, 125 Am. St. Rep. 355, quoted with approval in *Molway v. Chicago*, 239 Ill. 489, 88 N. E. 485, 16 Ann. Cas. 424, 23 L.R.A.(N.S.) 543; *Corcoran v. New York*, 188 N. Y. 131, 80 N. E. 660.

An automobile is not a "carriage" within the meaning of a statute requiring municipalities to keep their highways reasonably safe for the travel of "carriages." *Doherty v. Ayer*, 197 Mass. 241, 245, 83 N. E. 677, 14 L.R.A.(N.S.) 816, 125 Am. St. Rep. 355. In this case the court said: "When towns were first required by law to keep their highways and town ways 'reasonably safe and convenient for travelers, with their horses, teams, and carriages at all seasons of the year,' there was no thought of putting upon them such a burden as would be imposed if they were compelled to keep all of these ways in such a condition that automobiles could pass over them safely and conveniently at all seasons. Horses, teams, and carriages are grouped together in the statute, and the carriages referred to are those drawn by animal power. There are many highways and town ways that run into remote places and are but little traveled. In some parts of the state

A municipal corporation which has been authorized to pave its highways, may prepare a highway in a manner specially adapted to the use of automobiles.⁸

that are very sparsely settled there are vast stretches of sandy surface, traversed by roads that are but little used, where the small wheels of a heavy automobile might sometimes encounter as great an obstacle to progress as the plaintiff's vehicle encountered on the smooth, level sand of the place of this accident. To be obliged to harden all such roads would be a burden upon towns heavier than could be borne. There are steep mountain roads laid out for the use of but a small part of the public, where, in a heavy rain, water flows down with much force. This must be turned off from the traveled part of the road by high and sharp water bars. It would be unreasonable to require all such roads to be made convenient for travel with automobiles at all seasons. There are also roads that are frozen to a great depth in winter, which sometimes present a surface of very deep, soft mud while the ground is thawing in the spring. No reasonable expenditure by towns would be enough to make all such roads convenient for the use of heavy automobiles, with their small wheels, at all seasons. Another difficulty sometimes appears upon such roads when they are suddenly frozen, after having been rutted in a time of deep mud. Such roads could not be made safe and convenient for use by automobiles at such times without entire reconstruction."

⁸ *Rex v. Brighton Corp.*, 96 L. T. N. S. (Eng.) 762, 5 Local Gov. Rep. 584, 71 J. P. 265, 23 Times L. Rep. 440, reversing 95 L. T. N. S. 391, 54 W. R. 539, 70 J. P. 377, 4 Local Gov. Rep. 1104. In this case it appeared that a borough corporation, as highway authority, expended a large sum of money upon altering and paving a road, which was thereby permanently improved. The corporation *bona fide* decided that it would be right and proper so to alter and improve the road under the powers conferred on them by statute; but they decided to do the work at the particular time when it was done in order that an automobile club might be induced to use the road for proposed motor trials and races. It was held that the court could not interfere with the exercise by the corporation of their powers under the statute. In arriving at this decision the court said: "It cannot be denied that the physical act of changing the surface of a road when the corporation thought fit and proper so to do was within their statutory powers; and since, as I have said, there is no case proved by this evidence which shows either that they wastefully used the public money or that they did so with improper motives, we cannot interfere with them. It is most important that the discretion of public bodies in

§ 189. Care Imposed upon Drivers Respecting Defects.

A person riding in a motor car is not entitled to recover damages from a municipal corporation for injuries arising from a defect in a street or highway if his own negligence contributed to the accident.⁹ But a driver is entitled to the benefit of the legal principle that a traveler on a city street has the right to assume that all the parts thereof intended for travel are safe, and he is not open to the imputation of negligence if he fails to discern an unknown and concealed

matters of this kind should be left unfettered except in a case where there has been an exercise of powers, or a pretended exercise of powers, in bad faith. The case would be quite different if one came to the conclusion that, under the guise of the improvement of a road, certain moneys had been used really for diminishing the expenses of the automobile club, or anything of that sort, and that there had been a turning aside of public moneys to illicit purposes. There is nothing of the kind here. The money was spent solely in the improvement of the road; the public have the whole benefit of the whole of that money. So far as the evidence goes, it appears to me that the public have got their full money's worth in the improvement, and there is no ground for interfering with the discretion of the corporation in deciding the matter."

⁹ *Feeley v. Melrose*, 205 Mass. 329, 91 N. E. 306, 27 L.R.A.(N.S.) 1156; *Lauson v. Fond du Lac*, 141 Wis. 57, 123 N. W. 629, 25 L.R.A.(N.S.) 40, 135 Am. St. Rep. 30.

Where a motorist was injured by a rut in the street of which he had knowledge, he was held to be guilty of contributory negligence. *Morris v. Interurban St. R. Co.*, 100 App. Div. 295, 91 N. Y. Supp. 479.

Evidence of Due Care—Obeying Law of the Road.—On the question of plaintiff's due care at the time when he was injured by a defect in the highway, the duty of drivers to keep to the right of the middle of the traveled path may be considered in explanation of the course taken by him, when it would have been safer to keep to the left. *Baker v. Fall River*, 187 Mass. 53, 72 N. E. 336.

The questions of negligence and contributory negligence in actions for injuries received by motorists from defective highways, ordinarily, are questions for the jury. See for example *Great Cosmopolitan Shows' v. Petty*, 7 Ga. App. 236, 66 S. E. 624; *Baker v. Fall River*, 187 Mass. 53, 72 N. E. 336.

danger at the very instant necessary to prevent an impending disaster.¹

The operation of an automobile at night without sufficient lights to enable the driver to see objects ahead of him in time to avoid them is negligence, it seems, barring a recovery for injuries resulting from an accident caused by a defect in the highway.²

§ 190. Noncompliance with License or Registration Requirements as Affecting Recovery for Injuries Due to Defects.

Where the statute merely requires automobiles to be registered and imposes a penalty for violation of the requirement, but does not declare the use of unregistered cars

¹ *Corcoran v. New York*, 188 N. Y. 131, 80 N. E. 660.

² *Lauson v. Fond du Lac*, 141 Wis. 57, 123 N. W. 629, 25 L.R.A. (N.S.) 40, 135 Am. St. Rep. 30, was a suit by an occupant of an automobile for injuries caused by running the car into an opening in the highway. The automobile carried only one light and was running at a speed not to exceed eight miles an hour. The opening into which the car ran was guarded by a barrier about four feet above the surface of the road, and the car broke through this. It appeared from the testimony that the driver could not see objects more than ten or twelve feet ahead of him and that at the speed at which the car was going it could not be brought to a standstill within less than fifteen or twenty feet. The court held that there was such evidence of contributory negligence as to preclude a recovery. In reaching this conclusion the court said: "It seems to us, and we decide, that the driver of an automobile, circumstanced as was the driver of the car in which the plaintiff was riding, and operating it under such conditions as he operated his machine on the night of the accident, is not exercising ordinary care if he is driving the car at such a rate of speed that he cannot bring it to a standstill within the distance that he can plainly see objects or obstructions ahead of him. If his light be such that he can see objects for only a distance of ten feet, then he should so regulate his speed as to be able to stop his machine within that distance; and, if he fails to do so, and an accident results from such failure, no recovery can be had."

to be unlawful, a motorist who sustains injury from a defect in the highway is not precluded from recovering damages from the municipality whose duty it is to maintain the way in a safe condition, by reason of the fact that at the time of the injury his car was not registered and numbered.³ But where the statute declares that no automobile shall be operated upon any public highway unless licensed so to do, the rule is otherwise and there can be no recovery.⁴ The motorist in the latter case is deemed to be

³ *Hemming v. New Haven*, 82 Conn. 665, 74 Atl. 892, 26 L.R.A. (N.S.) 405, *distinguishing* *Dudley v. Northampton St. R. Co.*, 202 Mass. 443, 446, 89 N. E. 25, 23 L.R.A. (N.S.) 561. In this case the Connecticut court said: "The plaintiff was violating the statute relating to the registration of automobiles, but that fact does not relieve the defendant. This statute imposed an obligation upon the plaintiff to register his automobile, and for its violation prescribed a penalty. The statute goes no further, and it cannot be held that the right to maintain an action for damages resulting from the omission of the defendant to perform a public duty is taken away because the person injured was at the time his injuries were sustained disobeying a statute law which in no way contributed to the accident. . . . The registration of the plaintiff's machine was of no consequence to the defendant. His failure to register and display his number in no way contributed to cause the injury. The accident would have happened if the law in this respect had been fully observed. The plaintiff's unlawful act was not the act of using the street, but in making a lawful use of it without having his automobile registered and marked as required by law. The statute contains no prohibition against using an unlicensed and unnumbered automobile upon the highways and streets of the state."

⁴ *Doherty v. Ayer*, 197 Mass. 241, 247, 83 N. E. 677, 14 L.R.A. (N.S.) 816, 125 Am. St. Rep. 355.

Passengers in an automobile are barred from recovering under this doctrine; and the fact that they did not know that the car was not registered does not vary the rule. *Feeley v. Melrose*, 205 Mass. 329, 91 N. E. 306, 27 L.R.A. (N.S.) 1156, wherein the court said: "It would not help the individual plaintiffs that they may not have known that the automobile was not duly registered; they did not know that it was, and it was at their own peril, as to the city and as to third persons, that they undertook to use a vehicle the use of which was prohibited by law."

not a traveler but a trespasser,⁵ and his violation of the law will not be treated as mere evidence of negligence that was not a direct and proximate cause of the accident, or as only a condition that is not fatal to his claims.⁶

But the presumption is that the vehicle was duly registered and that the driver was duly licensed,⁷ and a municipality seeking to escape liability on the ground that the driver was not licensed or that the vehicle was not registered must establish the fact affirmatively.⁸

§ 191. Traction Engines Crossing Bridges.

The question whether the transportation of heavy traction engines is an ordinary use of a bridge which a municipality is bound to anticipate and provide for, has been presented in numerous cases. The extent to which traction engines are used in the locality is determinative of the question. Where engines have been in use for many years in the neighborhood of a bridge, the bridge must be held to have been built in anticipation of the taking of such engines over it.⁹ On the other hand if traction engines have not

⁵ *Feeley v. Melrose*, 205 Mass. 329, 91 N. E. 307, 27 L.R.A.(N.S.) 1156.

⁶ *Doherty v. Ayer*, 197 Mass. 241, 248, 83 N. E. 677, 14 L.R.A.(N.S.) 816, 125 Am. St. Rep. 355.

⁷ *Doherty v. Ayer*, 197 Mass. 241, 83 N. E. 677, 14 L.R.A.(N.S.) 816, 125 Am. St. Rep. 355.

⁸ *Doherty v. Ayer*, 197 Mass. 241, 83 N. E. 677, 14 L.R.A.(N.S.) 816, 125 Am. St. Rep. 355; *Feeley v. Melrose*, 205 Mass. 329, 91 N. E. 307, 27 L.R.A.(N.S.) 1156.

Proof of Nonregistration.—Evidence that the automobile had been registered, that this registration had expired, and that the car still bore the old registration, sufficiently establishes the fact, it seems. *Feeley v. Melrose*, 205 Mass. 329, 91 N. E. 307, 27 L.R.A.(N.S.) 1156.

⁹ *Bonebrake v. Huntington County*, 141 Ind. 62, 40 N. E. 141; *Curle v. Brandon*, 15 Manitoba 122. Other cases in which a municipality has been held liable for damages resulting from the breaking of a

come into general use, a municipality is not charged with the duty of maintaining its bridges so as to sustain the extraordinary weight of such vehicles.¹ And it is a question for the jury whether the use of a bridge for the transportation of traction engines is an ordinary one which the municipality should have anticipated and provided for.²

Of course, to hold a municipality liable for an injury arising from a defect in a bridge, it must be made to appear that the negligent manner of maintaining the bridge was the proximate cause of the injury.³ Where it appears that

bridge under the weight of a traction engine are the following: *La Porte County v. Ellsworth*, 9 Ind. App. 566, 37 N. E. 22; *Perry v. Clarke County*, 120 Ia. 96, 94 N. W. 454; *Moore v. Kenockee Tp.*, 75 Mich. 332, 42 N. W. 944, 4 L.R.A. 555; *Central City v. Marquis*, 75 Neb. 233, 106 N. W. 221; *Layton v. Sarpy County*, 83 Neb. 628, 120 N. W. 179; *Clapp v. Ellington*, 87 Hun 542, 34 N. Y. Supp. 283; *Pelkey v. Saranac*, 67 App. Div. 337, 73 N. Y. Supp. 493; *Vandewater v. Wappinger*, 69 App. Div. 325, 74 N. Y. Supp. 699; *Shadler v. Blair County*, 136 Pa. St. 488, 20 Atl. 539; *Smith v. Muncy Creek Tp.*, 206 Pa. St. 7, 55 Atl. 767; *Walker v. Ontario*, 118 Wis. 564, 95 N. W. 1086; *Pattison v. Wainfleet Tp.*, 1 Ont. W. Rep. 407.

¹ See the following cases holding that a municipality is not liable for damages resulting from the breaking of a bridge under a traction engine: *Vermilion County v. Chipps*, 131 Ind. 56, 29 N. E. 1066, 16 L.R.A. 228; *Wabash v. Carver*, (Ind.) 26 N. E. 42; *Fulton Iron, etc., Works v. Kimball Tp.*, 52 Mich. 146, 17 N. W. 733; *Seyfer v. Otoe County*, 66 Neb. 566, 92 N. W. 756; *McCormick v. Washington Tp.*, 112 Pa. St. 185, 4 Atl. 164; *Clulow v. McClelland*, 151 Pa. St. 583, 25 Atl. 147, 17 L.R.A. 650.

² *Moore v. Hazelton Tp.*, 118 Mich. 425, 76 N. W. 977; *Seyfer v. Otoe County*, 66 Neb. 566, 92 N. W. 756; *Clapp v. Ellington*, 51 Hun 58, 3 N. Y. Supp. 516; *Hardin County v. Coffman*, 60 Ohio St. 527, 54 N. E. 1054, 48 L.R.A. 455; *Whitmire v. Muncy Creek Tp.*, 17 Pa. Super. Ct. 399; *Coulter v. Pine Tp.*, 164 Pa. St. 543, 30 Atl. 490.

³ *McClain v. Garden Grove*, 83 Ia. 235, 48 N. W. 1031, 12 L.R.A. 482; *White v. Riley Tp.*, 121 Mich. 413, 80 N. W. 124; *Briggs v. Pine River Tp.*, 150 Mich. 381, 114 N. W. 221; *Widger v. Philadelphia*, 217 Pa. St. 161, 66 Atl. 249; *McFail v. Barnwell County*, 57 S. C. 294, 35 S. E. 562. *Compare Cooper v. Richland County*, 76 S. C. 202, 56 S. E. 958, 10 L.R.A.(N.S.) 799, 121 Am. St. Rep. 946.

an engine with its equipments and load weighed more than the statutory limit of weight, and that a bridge went down under it, the legal conclusion that the excessive weight contributed to produce the result is conclusive, and an allegation to the contrary is of no effect.⁴

§ 192. Putting Down Planks for Engine to Cross on.

Where the statute requires the laying of planks upon bridges before crossing with traction engines exceeding a specified weight, a compliance with the statute must be shown in order to authorize a recovery for injuries caused by a bridge breaking down under the weight of an engine.⁵ But a failure to comply with the statute in this respect is not a defense to an action for injuries caused by the breaking down of a bridge, unless there was some causal relation between the noncompliance with the statute and the accident.⁶

A law requiring hardwood planks at least two inches thick and twelve inches wide to be placed under an engine when it is being taken across a bridge is sufficiently complied with by using narrow planks of the required thickness in sufficient quantity to amount to the prescribed width.⁷ It has been held that a statute requiring planks to be placed under a traction engine while being propelled across a bridge is inapplicable where an engine is being hauled by animal power.⁸

⁴ Welch v. Geneva, 110 Wis. 388, 85 N. W. 970 (*distinguishing* Sutton v. Watwatosa, 29 Wis. 21, 9 Am. Rep. 534); Stone v. Tilden, 122 Wis. 290, 99 N. W. 1026.

⁵ Welch v. Geneva, 110 Wis. 388, 85 N. W. 970; Goodison Thresher Co. v. McNab Tp., 19 Ont. L. Rep. 188, 14 Ont. W. Rep. 25.

⁶ Walker v. Ontario, 111 Wis. 113, 86 N. W. 566.

⁷ Walker v. Ontario, 111 Wis. 113, 86 N. W. 566.

⁸ Young v. Madison County, 137 Ia. 515, 115 N. W. 23.

CHAPTER XII.

INJURY TO HIGHWAYS OR APPURTENANCES OR ADJOINING PROPERTY BY MOTOR VEHICLES.

§ 193. Generally.

- 194. Injury to Surface of Highway.
- 195. Injury to Water Mains beneath Highway.
- 196. Injury to Bridges and Culverts.
- 197. Injury to Light Standards.
- 198. Evidence of Negligence in Colliding with Light Standard.
- 199. Fires Set by Steam Traction Engines.

§ 193. Generally.

As a general proposition, the owner of a motor vehicle which is of a usual and recognized construction is not liable for injury done to a highway or its appurtenances unless he is guilty of negligence.¹

§ 194. Injury to Surface of Highway.

Whether the owner of a traction engine is liable for injury done to a highway by the use of the engine thereon depends upon the usage of the locality. If the operation of traction engines upon a particular highway is recognized as a lawful use thereof, the owner of an engine is not liable for such damage as naturally results from driving the vehicle upon the way. On the other hand if the engine is of unusual construction or of excessive weight the owner thereof may be held liable for damage done to the surface

¹ See *Morrell v. Skene*, 64 Misc. 185, 119 N. Y. Supp. 28, as set forth, *infra*, p. 199, and see the cases cited *passim* this section.

of the highway,² and he may be enjoined at the suit of the highway authorities from operating his vehicle upon the highway.³ And under statute expenses incurred in repairing damage caused to highways by the excessive weight of traction engines may be recovered by the municipalities having the care of maintaining the ways.⁴ But if the highway has not been maintained in a proper condition the owner of a traction engine is not liable because the way becomes defective by the operation of the engine thereon.⁵

§ 195. Injury to Water Mains beneath Highway.

A municipality or water company having water mains beneath the highway is bound to lay such mains at sufficient

² The use on the highway of a traction engine of such weight and construction as to injure the surface of the way or endanger bridges is a nuisance. *Com. v. Allen*, 148 Pa. St. 358, 23 Atl. 1115, 16 L.R.A. 148, 33 Am. St. Rep. 830; *Cavan County v. Kane*, [1910] 2 Ir. 644.

³ *Att'y-Gen. v. Scott*, [1904] 1 K. B. (Eng.) 404, 89 L. T. N. S. 726, 73 L. J. K. B. 196, 68 J. P. 137, 2 Local Gov. Rep. 461.

⁴ *Aveland v. Lucas*, 5 C. P. D. (Eng.) 351, 42 L. T. N. S. 788, 49 L. J. C. Pl. 643, 44 J. P. 360, 28 W. R. 571, *affirming* 5 C. P. D. 211; *Reg. v. Ellis*, 8 Q. B. D. (Eng.) 466, 46 J. P. 295, 30 W. R. 613; *Pethick v. Dorset County Council*, 77 L. T. N. S. (Eng.) 683, *affirmed* 62 J. P. 579; *Kent County Council v. Vidler*, [1895] 1 Q. B. (Eng.) 448; *Kent County Council v. Gerard*, [1897] A. C. (Eng.) 633, *affirming* [1897] 1 Q. B. 351; *Att'y-Gen. v. Scott*, [1904] 1 K. B. (Eng.) 404, 89 L. T. N. S. 726, 73 L. J. K. B. 196, 68 J. P. 137, 2 Local Gov. Rep. 461; *Kent County Council v. Folkestone Corp.*, [1905] 1 K. B. (Eng.) 620, [1905] W. N. 30; *Lancaster Rural Dist. Council v. Fisher*, [1907] 2 K. B. (Eng.) 516, [1907] W. N. 150; *Bromley Rural Dist. Council v. Croydon*, [1908] 1 K. B. (Eng.) 353 *reversing* [1907] 2 K. B. 39; *Rex v. James*, [1908] 1 K. B. (Eng.) 958. So the owner is liable for the expense of repairing a bridge caused by driving his engine thereover. *Norfolk County Council v. Green*, 90 L. T. N. S. (Eng.) 451, 68 J. P. 223, 2 Local Gov. Rep. 652.

⁵ *Att'y-Gen. v. Scott*, [1905] 2 K. B. (Eng.) 160, 93 L. T. N. S. 249, 74 L. J. K. B. 803, 69 J. P. 109, 21 Times L. Rep. 211, 3 Local Gov. Rep. 272.

depth to withstand the ordinary traffic upon the highway. Consequently if water pipes are broken by the passage of a traction engine the primary question is whether traction engines have been used in sufficient numbers and for a sufficient length of time to constitute their use on the highway "ordinary traffic," which the owner of the water pipes must be deemed to have had in contemplation. If this question is to be answered in the affirmative the owner of the engine is not liable. On the other hand if the passage of traction engines is not ordinary traffic, the owner of an engine breaking pipes is liable for the damage done.⁶ And if water mains laid at a reasonable depth underneath the highway are broken by the use of an exceptionally heavy traction engine, its owner is liable to respond in damages to the municipality or water company owning the water main.⁷

§ 196. Injury to Bridges and Culverts.

As an aid to locomotive propulsion the drive wheels of traction engines frequently are provided with calks attached to the rim or surface thereof to increase their adhesion to the road, and the tendency of the machine is to push or shove the stationary substance upon which it treads backward or from under it by its effort to move forward; hence, by reason of their structure, manner of propulsion and great weight, their use upon the public highways has resulted frequently in unusual damage to small bridges and culverts.⁸ To prevent this mischief statutes have been passed requiring persons operating any traction engine over any bridge to procure heavy planks and place them upon

⁶ *Armagh Union v. Bell*, [1900] 2 Ir. R. 371.

⁷ *Chichester v. Foster*, [1906] 1 K. B. (Eng.) 167, 93 L. T. N. S. 750, 75 L. J. K. B. 33, 70 J. P. 73, 22 Times L. Rep. 18, 4 Local Gov. Rep. 205, 54 W. R. 199.

⁸ See *Toedtemeier v. Clackamas County*, 34 Ore. 72, 54 Pac. 954.

the bridge for the wheels of the engine to rest upon in crossing.⁹ If the owner of a traction engine drives it across a bridge without first laying down planks for it to run on, as required by statute, he is liable for damage resulting to the bridge from such failure to comply with the law.¹

§ 197. Injury to Light Standards.

One who operates a motor vehicle upon the streets is liable for damage done to a lamppost or light standard by a collision of his vehicle therewith, if such collision is attributable to the dangerous character of the vehicle and this was known to the operator,² or if the collision was due to the negligence of the driver of the vehicle.³

The owner of the lamppost is entitled to damages without showing positively that the erection of the post was authorized,—at any rate, if the post has in fact stood in its existing position for many years.⁴

§ 198. Evidence of Negligence in Colliding with Light Standard.

The very fact that the vehicle came in contact with the lamppost affords, under ordinary circumstances, evidence

⁹ See *Toedtemeier v. Clackamas County*, 34 Ore. 69, 54 Pac. 954.

¹ *Goodison Thresher Co. v. McNab Tp.*, 19 Ont. L. Rep. 188, 14 Ont. W. Rep. 25.

² A person who puts on the streets a motor omnibus which, to his knowledge, is liable to skid so as to be dangerous in certain conditions of the roadway is liable for damage done by the omnibus when it does skid under such conditions, though the driver is guilty of no personal negligence. *Walton v. Vanguard Motor Bus Co.*, 7 Local Gov. Rep. (Eng.) 349, 72 J. P. 505, 25 Times L. Rep. 13.

³ *Barnes Urban Dist. Council v. London Gen. Omnibus Co.*, 100 L. T. N. S. (Eng.) 115, 73 J. P. 68.

⁴ *Walton v. Vanguard Motor Bus Co.*, 72 J. P. (Eng.) 505, 25 Times L. Rep. 13.

of negligence.⁵ And where it is shown that the collision occurred in daylight and the position of the lamppost must have been obvious, a *prima facie* case of negligence is made out.⁶ Under such circumstances the construction of the motor vehicle or the position of the lamppost is immaterial.⁷ If, however, the driver's attention was diverted at the moment and he did not see the lamppost on that account, the imputation of negligence may be overcome, it seems.⁸

§ 199. Fires Set by Steam Traction Engines.

In jurisdictions where traction engines have been used in such numbers that they have become recognized vehicles upon the highway, the owner of such a vehicle is not absolutely liable for fire set by escaping sparks, but only in case he was negligent. A more stringent rule is recognized in some jurisdictions, however. It has been held that if the owner of a traction engine, which is liable to emit sparks, takes the engine upon the highway he is absolutely liable for damage to property upon land adjoining the highway by reason of fire set by sparks from the engine. Negligence in the use of the engine does not enter into the question of liability in such case.⁹

It is the duty of a person operating a steam traction engine upon the highway to have it equipped with an efficient spark arrester, such as engines are equipped with cus-

⁵ *Walton v. Vanguard Motor Bus Co.*, 72 J. P. (Eng.) 505, 25 Times L. Rep. 13.

⁶ *Barnes Urban Dist. Council v. London Gen. Omnibus Co.*, 100 L. T. N. S. (Eng.) 115, 73 J. P. 68.

⁷ *Barnes Urban Dist. Council v. London Gen. Omnibus Co.*, 100 L. T. N. S. (Eng.) 115, 73 J. P. 68.

⁸ *Barnes Urban Dist. Council v. London Gen. Omnibus Co.*, 100 L. T. N. S. (Eng.) 115, 73 J. P. 68.

⁹ *Gunter v. James*, 72 J. P. (Eng.) 448, 6 Local Gov. Rep. 1138, 24 Times L. Rep. 868.

tomarily, and a failure to have an engine equipped with such a contrivance to prevent the escape of sparks from the smokestack is negligence rendering the owner liable for damages from fire caused by escaping sparks.¹

¹ *McFarland v. Sayen*, 156 Mich. 426, 120 N. W. 794, 16 Detroit Leg. N. 105; *Ainsworth v. Hover*, 162 Mich. 135, 127 N. W. 325.

CHAPTER XIII.

RACES OR SPEED CONTESTS.

§ 200. Statutory Authority to Permit Races on Highways.

201. Authority in Absence of Statute.

202. Persons Injured by Racing Cars.

203. Right of Spectator to Recover for Injuries.

§ 200. Statutory Authority to Permit Races on Highways.¹

The general motor vehicle statutes in some instances authorize local authorities to set aside for a given time specified public highways for speed contests or races, to be conducted under restrictions proper for the safety of the public.² Where such an act is in force a state officer, by virtue of the authority conferred upon him by statute to make such rules from time to time as may be necessary for the "protection" of the public highways, has no power to prohibit the use of a highway for racing or to recover damages thereto occasioned by a race.³

§ 201. Authority in Absence of Statute.

But in the absence of such a statute a municipality has no power, it seems, to authorize the use of its highways for such a purpose, to the exclusion of the public. It has been held that the authority conferred upon a city "to regulate the use of streets and sidewalks by foot passengers, animals,

¹ As to the right of a municipal corporation to specially prepare its highways for a speed contest, see *Rex v. Brighton Corp.*, 96 L. T. N. S. (Eng.) 762, cited *supra*, p. 186.

² See, for example, N. Y. Laws 1901, c. 374.

³ *Morrell v. Skene*, 64 Misc. 185, 119 N. Y. Supp. 28.

and vehicles, to regulate the speed at which vehicles are propelled in the streets," etc., does not empower it to grant to individuals the right to use a highway therein on a certain occasion for an automobile race course, to the exclusion of the public.⁴

And if a municipality assumes to permit the use of its highways for a speed contest, it becomes a participant in the unlawful act.⁵

§ 202. Persons Injured by Racing Cars.

A speed contest constitutes a nuisance if it is held under an unlawful grant of authority by a municipality and is so conducted as to obstruct the highway,⁶ and on this ground a municipality which authorizes it may become liable, it

⁴ *Johnson v. New York*, 186 N. Y. 139, 78 N. E. 715, 9 Ann. Cas. 824, 116 Am. St. Rep. 545, *reversing* 109 App. Div. 821, 96 N. Y. Supp. 754.

⁵ Under a statute making it unlawful to drive an automobile upon any highway in any city at a greater rate of speed than eight miles an hour, "except where a greater rate of speed is permitted by the ordinance of the city," a city ordinance which does not authorize the operation of automobiles generally at a greater rate of speed than that prescribed in the statute, but which merely gives permission to certain specified persons to use a city highway as an automobile race course on a particular occasion, is not only invalid as a regulation of the speed of automobiles, but also operates to make the city a participant in the commission of the unlawful act of driving the automobiles at an excessive rate of speed. *Johnson v. New York*, 186 N. Y. 139, 78 N. E. 715, 9 Ann. Cas. 824, 116 Am. St. Rep. 545, *reversing* 109 App. Div. 821, 96 N. Y. Supp. 754.

⁶ In *Johnson v. New York*, 186 N. Y. 139, 78 N. E. 715, 9 Ann. Cas. 824, 116 Am. St. Rep. 545, the court said: "It may be that the right of the municipal authorities to allow, at certain seasons of the year and on certain streets where it can be safely done, the operation of vehicles at a greater speed than elsewhere permitted and the use of the street for sleighing or coasting, can be sustained. This it is unnecessary to determine. In those cases every member of the public has an equal right to share in the privilege granted in the street. There is no appropriation of it for a private use. The present case is radically

would seem, to a person who is injured by one of the racing cars.⁷

§ 203. Right of Spectator to Recover for Injuries.

But if a person injured under such circumstances voluntarily attended the exhibition as a spectator, he is not entitled to set up the illegality thereof as a ground for recovery. The general maxim *injuria non fit volenti* applies, and he will not be heard to complain of an act in which he has participated, if not so far as to render him liable as a party to the offense or tort, at least to the extent of witnessing it, encouraging it, and seeking pleasure and enjoyment therefrom.⁸ However, such a person may be entitled to recover from the municipality and the persons conducting the race, if the latter were guilty of negligence. In such a case the court held the questions of nuisance and negligence to be for the jury's determination.⁹

different. The occupation of the highway was to be exclusive in the parties to whom the permission was granted. Therefore, the race or speed contest held by the defendants was an unlawful use and obstruction of the highway and *per se* a nuisance."

⁷ See *Johnson v. New York*, 186 N. Y. 139, 78 N. E. 715, 9 Ann. Cas. 824, 116 Am. St. Rep. 545.

⁸ *Johnson v. New York*, 186 N. Y. 139, 78 N. E. 715, 9 Ann. Cas. 824, 116 Am. St. Rep. 545; *Baldwin v. Locomobile Co.*, (App. Div.) 44 N. Y. L. J. 2737, March 29, 1911.

⁹ In an action against a city and the participants in an automobile race to recover damages for personal injuries sustained by the plaintiff while witnessing the race, where it appeared that the race was held in a city street by virtue of express permission granted by the city without lawful authority, the court held that it was for the jury to determine whether the contest as conducted was so dangerous as to be in fact a nuisance within the meaning of the statute defining nuisances, whether the defendants or any of them were guilty of negligence in the management of the race, and whether the plaintiff was guilty of contributory negligence. *Johnson v. New York*, 186 N. Y. 139, 78 N. E. 715, 9 Ann. Cas. 824, 116 Am. St. Rep. 545, reversing 109 App. Div. 821, 96 N. Y. Supp. 754.

CHAPTER XIV.

OWNER'S LIABILITY FOR NEGLIGENCE OF DRIVER.¹

§ 204. Civil and Criminal Liability Generally.

Basis of Civil Liability.

- 205. Ownership of Vehicle.
- 206. Furnishing Opportunity to Drive Vehicle.
- 207. Lending Vehicle.
- 208. Relationship by Blood or Marriage.
- 209. Relationship of Master and Servant.
- 210. Permissive Use as Establishing Relationship of Master and Servant.
- 211. Borrowed Chauffeur.
- 212. Existence of Relationship of Master and Servant at Time of Negligence.
- 213. Test for Determining Existence of Relationship.
- 214. Relationship as Affected by Knowledge or Consent of Owner.

Acting within Scope of Employment or Otherwise.

- 215. In General.
- 216. Using Car for Private Purposes Generally.
- 217. Permission from Owner.
- 218. Driving at Direction of Member of Owner's Family.
- 219. Deviating from Route.
- 220. Using Car to Go to Meals.
- 221. Surrendering Management of Car.
- 222. Under Other Circumstances.
- 223. Pleading.
- 224. Competency of Evidence—Cross-examination of Chauffeur.
- 225. Sufficiency of Evidence to Make *Prima Facie* Case.
- 226. Inferences from Particular Facts.
- 227. Weight of Evidence.
- 228. Functions of Court and Jury.

¹ The hiring of automobiles, embracing questions involving the liabilities of the parties to the transaction, is considered *infra*, pp. 271-274. And as to the liability of a passenger in an automobile for injuries due to the negligence of the driver thereof, see *infra*, p. 234

§ 204. Civil and Criminal Liability Generally.

That the owner of a motor vehicle may be held liable in damages for injury to person or property, which is caused by the negligence of his chauffeur in the management of the car, is undoubted.³ And it is not an essential to the existence of such liability that the chauffeur should have been habitually negligent and the owner cognizant thereof. Notice or knowledge is not an element in fixing liability upon the owner to respond in damages. Where it is sought to hold the owner criminally responsible for the act of his chauffeur, however, the rule is otherwise. The owner is not criminally responsible for the negligence of his chauffeur while in control of the car, unless the chauffeur was habitually negligent and the owner knew of it without correcting it. Accordingly where the owner is riding in the car at the time of the accident, which occurs so suddenly that he can exercise no control thereover, he is not liable.³

Basis of Civil Liability.

§ 205. Ownership of Vehicle.

A person is not liable for injury caused by the negligence of another while operating an automobile merely because he was the owner of the car.⁴

³ *New York Transp. Co. v. Garside*, 157 Fed. 521, 85 C. C. A. 285, *modifying* 146 Fed. 588; *Thomas v. Armitage*, 111 Minn. 238, 126 N. W. 735; *Merklinger v. Lambert*, 76 N. J. L. 806, 72 Atl. 119; *Ottomeier v. Hornburg*, 50 Wash. 316, 97 Pac. 235. See also *Johnson v. Shaw*, 204 Mass. 165, 90 N. E. 518; *Rohde v. Mantell*, 107 App. Div. 621, 95 N. Y. Supp. 5. In *Hannigan v. Wright*, 5 Penn. (Del.) 542, 63 Atl. 234, the court said: "If the defendant was, at the time of the accident, the owner of the automobile which caused the injury, and the person running or operating it was under his direction and control, then such operator was the servant of the defendant, and any negligence in the operation of the machine would be the negligence of the defendant."

³ *People v. Scanlon*, 132 App. Div. 528, 117 N. Y. Supp. 57.

⁴ *Clark v. Buckmobile Co.*, 107 App. Div. 120, 94 N. Y. Supp. 771;

§ 206. Furnishing Opportunity to Drive Vehicle.

Nor is an owner liable because he furnished the opportunity to the driver to use the vehicle.⁵ The rule of law which requires the master to exercise a proper degree of care to guard, control, and protect dangerous instrumentalities owned or operated by him, and imposes upon him liability for an injury occurring by reason of the improper use of such an instrumentality by a servant, though occasioned while not in the performance of his duty, does not apply to this case,⁶ because, as stated above, the motor vehicle is not a dangerous agency or instrumentality within the rule of law imposing extraordinary duties upon persons owning and maintaining such instrumentalities.⁷ Accordingly the owner or keeper of an automobile will not be held liable for a negligent homicide committed therewith in a public street by a person who took the car, without the knowledge of the former, from a shop or garage where it had been left, although the leaving of the automobile at the shop or garage furnished the opportunity whereby such person got possession of it.⁸

Maier v. Benedict, 123 App. Div. 579, 108 N. Y. Supp. 228. In the case of injuries caused by the negligent operation of an automobile by a chauffeur employed by the owner of the car, the latter is not liable merely because he was the owner of the car by which the injuries were caused. *Danforth v. Fisher*, 75 N. H. 111, 71 Atl. 535, 21 L.R.A.(N.S.) 93.

⁵ The owner of an automobile is not liable to travelers in the highway for injuries inflicted therewith by a servant merely because he has made it possible for the servant to take out the machine at his pleasure. *Jones v. Hoge*, 47 Wash. 663, 92 Pac. 433, 14 L.R.A.(N.S.) 216, 125 Am. St. Rep. 915.

⁶ *Slater v. Advance Thresher Co.*, 97 Minn. 305, 107 N. W. 133, 5 L.R.A.(N.S.) 598.

⁷ See *supra*, § 13.

⁸ *Lewis v. Amorous*, 3 Ga. App. 50, 59 S. E. 338. In this case the court said: "Even if we could for a moment concede (as in all

§ 207. Lending Vehicle.

The owner of a motor vehicle is not liable civilly for injury attributable to the negligent management of another on the ground that he permitted the driver to use it.⁹ It has been held that an owner who allows his son, twenty years of age, to drive such vehicle at his pleasure is not liable for injuries inflicted by the son's negligence when the owner was not present, and the son was not acting for him but was driving the car for his own purposes.¹ And it has been held that a motor car is not *per se* of so dangerous a character as to render a master liable for the negligence of a competent chauffeur to whom the master loaned the car for private use, the court saying: "If a gamekeeper had

common sense we cannot) that it would be negligent for a person to leave an automobile in a shop or garage without chaining it down or locking it in, still when the injury which actually happens is directly resultant from the immediate negligence of a conscious, efficient, and responsible actor, with whose conduct the former is in no wise bound by any privity, the leaving of the machine unguarded is not the proximate cause of the injury."

Seller of Car Not Liable.—Likewise, where an automobile is sold under an agreement whereby the purchaser is to use the car for hire and pay for it out of the money derived from its use, the seller is not liable for an injury caused by the negligence of the purchaser. *Braverman v. Hart*, 105 N. Y. Supp. 107.

⁹*Lewis v. Amorous*, 3 Ga. App. 50, 59 S. E. 338; *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764; *Doran v. Thomsen*, 76 N. J. L. 754, 71 Atl. 296, 19 L.R.A.(N.S.) 335, 131 Am. St. Rep. 677; *Maher v. Benedict*, 123 App. Div. 579, 108 N. Y. Supp. 228. But see *Ingraham v. Stockamore*, 63 Misc. 114, 118 N. Y. Supp. 399, holding that since an automobile is a dangerous instrumentality its owner is liable for injuries occurring through the negligence of any person who uses the car with the owner's consent, although such person uses the car for his own pleasure.

The driver of an automobile is not liable for an injury caused by the negligent driving of a borrower, if it was not used at the time in the owner's business. *Doran v. Thomsen*, 74 N. J. L. 445, 66 Atl. 897.

¹*Maher v. Benedict*, 123 App. Div. 579, 108 N. Y. Supp. 228.

borrowed his master's gun and had gone from the estate on a hunting expedition of his own, and had negligently shot a man, would the master be responsible because he was using that instrumentality, which might be dangerous if carelessly used, the gun?"²

The statutory regulations, however, in one jurisdiction, have been held to render the owner liable if an injury occurs through the negligence of a driver while the latter is using the car by permission.³

§ 208. Relationship by Blood or Marriage.

That the driver is a relative of the owner does not render the latter liable for injuries caused by negligence in operating the car.⁴

§ 209. Relationship of Master and Servant.

The liability of the owner of an automobile for injuries occasioned by the negligence of another while driving the car depends upon the existence between such owner and

² *Cunningham v. Castle*, 127 App. Div. 580, 111 N. Y. Supp. 1057.

³ *Mattei v. Gillies*, 16 Ont. L. Rep. 558, 12 Ann. Cas. 970, wherein it was said by Boyd, C.: "I am inclined to hold that, having regard to the provisions of the act, as to registration of the owner, the carrying of a number on the machine for the purpose of identification, and the permit granted on those conditions, as between the owner and the public, the chauffeur or driver is to be regarded as the *alter ego* of the proprietor, and that the owner is liable for the driver's negligence in all cases where the use of the vehicle is with the sanction or permission of the proprietor. In driving the motor he is within the ostensible scope of his employment, and the liability will remain by virtue of the statute, and this even though the driver may be out on an errand of his own."

⁴ *Reynolds v. Buck*, 127 Ia. 601, 103 N. W. 946; *Mahe v. Benedict*, 123 App. Div. 579, 108 N. Y. Supp. 228 (driver was son of owner in this case).

driver of the relationship of master and servant.⁵ If the driver was not the servant of the owner at the time of the infliction of the injuries the owner is not liable.⁶

This relationship is constituted, of course, where the owner procures a paid chauffeur to drive his car at his direction, but the relationship of owner and chauffeur is not dependent upon compensation being made directly to the chauffeur.⁷ While legislatures might very well declare, in view of the many injuries that result from the negligent and reckless operation of motor vehicles, that the person owning any such vehicle shall be held *prima facie* responsible for wrong inflicted by its use, yet in the absence of any such enactment there is no presumption from the mere fact of

⁵ *Mahe v. Benedict*, 123 App. Div. 579, 108 N. Y. Supp. 228; *Hiroux v. Baum*, 137 Wis. 197, 118 N. W. 533, 19 L.R.A.(N.S.) 332. See also *Hannigan v. Wright*, 5 Penn. (Del.) 540, 63 Atl. 234.

⁶ *Doran v. Thomsen*, 74 N. J. L. 445, 66 Atl. 897, 76 N. J. L. 754. 71 Atl. 296, 19 L.R.A.(N.S.) 335, 131 Am. St. Rep. 677; *Parsons v. Wisner*, 113 N. Y. S. 922 (car was lent by owner to brother who employed chauffeur).

⁷ *Son Operating Car for Benefit of Family*.—In *Hiroux v. Baum*, 137 Wis. 197, 118 N. W. 533, 19 L.R.A.(N.S.) 332, it appeared that the defendant's son, aged seventeen, lived with his father and occasionally worked in the latter's store, although without compensation. The defendant, at his son's request, bought an automobile, with the understanding that his son, after learning to operate it, should teach the other members of the family to operate the automobile or should operate it for their benefit. The defendant stipulated with the vendor of the automobile that the latter should teach the son to operate the machine. At the time of the injury complained of the car was, with the consent of the defendant, in the possession of his son, who was operating it under the direction of the vendor. The court held that the evidence of the operation of the car by the son under the authority of the defendant was sufficient to establish *prima facie* the relation of master and servant, and that the jury were warranted in finding from the evidence and the legitimate inferences to be drawn therefrom that in operating the car the son was the agent or servant of the defendant.

physical possession that the person operating a vehicle at a particular time was the servant of the owner.⁸ It is submitted, however, that the fact that a motor vehicle is being driven by another than the owner, with the latter's consent, should give rise, in the absence of anything to the contrary, to an inference that the relation of owner and chauffeur existed between them. At any rate, a person seeking to establish such relationship should be required to adduce only slight proof in order to make out a *prima facie* case. It has been held that evidence that the driver of a cab which collided with the plaintiff's horse had upon his hat a plate with the words "Electric Vehicle" and a number, and that the same words were upon a plate on the cab, coupled with proof that the drivers in the employ of the defendant, a corporation named the Electric Vehicle Company, wore similar inscriptions upon their hats, established, *prima facie*, that the driver of the electric cab was in the employ of the defendant.⁹

§ 210. Permissive Use as Establishing Relationship of Master and Servant.

Where the owner or person in possession of an automobile merely permits another to use it, the latter does not thereby become the servant of the former so as to render the one liable for injuries due to the other's negligent operation of the car.¹ And a child does not become the servant of the parent, merely by reason of the fact that the parent purchased the car for the pleasure of the family, and the child operated it for that purpose.²

⁸ *Trombley v. Stevens-Duryea Co.*, 206 Mass. 516, 92 N. E. 764.

⁹ *Curley v. Electric Vehicle Co.*, 68 App. Div. 18, 74 N. Y. S. 35.

¹ *Lewis v. Amorous*, 3 Ga. App. 50, 59 S. E. 338.

² *Daughter Driving Parent's Car.*—In *Doran v. Thomsen*, 76 N. J. L. 754, 71 Atl. 296, 19 L.R.A.(N.S.) 335, 131 Am. St. Rep. 677, it

§ 211. Borrowed Chauffeur.

It is well settled that the general master of a servant may lend him, with his consent, to another person for service in the business of the other, and that, while he is engaged in the business of the other person and in all respects subject to his direction and control, he becomes the servant of the new master, and this master becomes liable for his negligence.³ Accordingly, if the owner of an automobile borrows, for the purpose of driving his car, a chauffeur who is employed by another owner, he becomes liable for injuries due to the negligent operation of the car by such chauffeur.⁴

appeared that a father was possessed of an automobile which he kept upon his premises, and that his daughter, about nineteen years of age, was accustomed to drive it, and did so whenever she desired to. She asked permission to use the car when the father was at home, but when he was not at home she took it sometimes without permission. There was no proof that the daughter was actually employed by the father to operate the machine. The daughter in using the automobile for her own pleasure in driving her personal friends, negligently injured a person in the highway. The court held that the proof was not sufficient to constitute the daughter the servant or agent of the father, and that a motion for a direction of a verdict for the defendant should have prevailed.

³ *Shepard v. Jacobs*, 204 Mass. 110, 90 N. E. 392, 26 L.R.A. (N.S.) 442, 134 Am. St. Rep. 648.

⁴ One who intrusts the running and management of his automobile to another as his chauffeur is responsible for the latter's negligence while so acting, although the chauffeur is regularly employed and paid by a third person. *Irwin v. Judge*, 81 Conn. 492, 71 Atl. 572.

Driver Provided by Vendor of Automobile.—The defendant purchased and paid for a motor car in London, and the vendor agreed to provide a driver to drive the car to a certain place outside London and deliver it there, as the defendant's driver did not know the locality and had no experience in driving similar cars. While it was being driven by the driver supplied by the vendor from London, to the place named for delivery, it collided with and damaged a motor bicycle, owing to the negligence of the driver. At the time the defendant, his driver, and his son were in the car. In an action by the owner

§ 212. Existence of Relationship of Master and Servant at Time of Negligence.

Assuming that a person was in the general employment of the owner of a motor vehicle at the time when an injury occurred by reason of his negligent operation of the car, it must appear, in order to render the owner liable for such injury, that the operator was acting as the servant of the owner at that particular moment. If he was on an errand of his own he did not stand toward the owner in the relation of servant, and the owner of the vehicle cannot be held liable for injury due to his negligence.⁵

§ 213. Test for Determining Existence of Relationship.

The test is, Was the person operating the car acting within the scope or course of the employment at the time of the acts complained of? ⁶ If he was so acting, the owner is liable; if he was not, the owner is not liable.⁷ This is the

of the bicycle against the defendant to recover for the damage to the bicycle, the trial judge held that the driver of the car, though he was the general servant of the vendor, was at the time under the control of the defendant, who had the property in and possession of the car, and that therefore the defendant was liable to the plaintiff for the negligence of the driver. On appeal this decision was held to be right. *Perkins v. Stead*, 23 Times L. Rep. (Eng.) 433, *following Jones v. Scullard*, [1898] 2 Q. B. 565, 67 L. J. Q. B. 895.

⁵ *Lotz v. Hanlon*, 217 Pa. St. 339, 66 Atl. 525, 10 Ann. Cas. 731, 10 L.R.A.(N.S.) 202, 118 Am. St. Rep. 922.

⁶ *Slater v. Advance Thresher Co.*, 97 Minn. 305, 311, 107 N. W. 133, 5 L.R.A.(N.S.) 598; *Moon v. Matthews*, 227 Pa. St. 488, 76 Atl. 219.

⁷ *Patterson v. Kates*, 152 Fed. 481; *Lewis v. Amorous*, 3 Ga. App. 50, 53, 59 S. E. 338; *Matla v. Rapid Motor Vehicle Co.*, 160 Mich. 639, 125 N. W. 708, 709; *Danforth v. Fisher*, 75 N. H. 111, 71 Atl. 535, 21 L.R.A.(N.S.) 93; *Howe v. Leighton*, (N. H.) 75 Atl. 102; *Doran v. Thomsen*, 74 N. J. L. 445, 66 Atl. 897, 76 N. J. L. 754, 71 Atl. 296, 19 L.R.A.(N.S.) 335, 131 Am. St. Rep. 677; *Collard v. Beach*, 81 App. Div. 582, 81 N. Y. Supp. 619; *Clark v. Buckmobile Co.*, 107 App. Div. 120, 94 N. Y. Supp. 771; *Shepard v. Wood*, 116 App. Div. 861, 102 N. Y. S. 306; *Bohan v. Metropolitan Express Co.*,

elementary proposition that "the master is not liable for injuries occasioned to a third person by the negligence of his servant, while the latter is engaged in some act beyond the scope of his employment, for his own or the purposes of another, although he may be using the instrumentalities furnished him by the master with which to perform the ordinary duties of his employment."⁸

§ 214. Relationship as Affected by Knowledge or Consent of Owner.

If the injury occurred while the car was being operated by a chauffeur in the course of his employment, the owner is liable although the chauffeur's act was not necessary to the performance of his duties.⁹ Likewise the owner is liable if the chauffeur was acting within the course of his employment, although he was driving without the knowledge or consent of the owner,¹ or in a way that was not

122 App. Div. 590, 107 N. Y. Supp. 530; *Lotz v. Hanlon*, 217 Pa. St. 339, 66 Atl. 525, 10 Ann. Cas. 731, 10 L.R.A.(N.S.) 202, 118 Am. St. Rep. 922; *Moon v. Matthews*, 227 Pa. St. 488, 76 Atl. 219; *Durham v. Strauss*, 38 Pa. Super. Ct. 620; *Com. v. Bacon*, 35 Pa. Co. Ct. 429; *Rochester v. Bull*, 78 S. C. 249, 58 S. E. 766.

A company operating electric cabs is liable for the negligent or wilful acts of its chauffeurs, if the acts were done by the chauffeurs in the course of their employment and for the purpose of furthering the company's business. *Curley v. Electric Vehicle Co.*, 68 App. Div. 18, 74 N. Y. Supp. 35.

⁸ *Slater v. Advance Thresher Co.*, 97 Minn. 305, 107 N. W. 133, 5 L.R.A.(N.S.) 598.

⁹ *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 771, 772; *Bennett v. Busch*, 75 N. J. L. 240, 67 Atl. 188.

¹ *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 771, 773; *Winfrey v. Lazarus*, (Mo.) 128 S. W. 279. The consent of the owner to the use of the automobile is not necessarily determinative of his liability, it has been said, as, for instance, if an accident should occur while the chauffeur was taking the automobile from the garage to the machine shop for repairs, the owner's want of knowledge would not

expected,³ or even in disobedience of instructions.³ The rule has been stated as follows: "The employer is liable for all injuries to person or property caused by the negligence of his employee if the act which results in the injury is done while the employee is acting within the scope of his employment in the employer's service, though the act was not necessary to the performance of the employee's duties, and it was not expressly authorized by the employer or known to him."⁴

Acting Within Scope of Employment or Otherwise.

§ 215. In General.

Whether the chauffeur, at the time of the accident, was acting within the scope of his employment involves an inquiry into the contract of his employment and the relation of his acts at the time of the accident to the service he actually performed pursuant to his employment,⁵ and depends upon the facts of each case.⁶

affect his liability, because the act of the chauffeur would be in the prosecution of the master's business and within the scope of the chauffeur's employment.

³ If the chauffeur was doing what he was employed to do at the time of the injury, the fact that he was not doing it in the way expected is immaterial. *Danforth v. Fisher*, 75 N. H. 111, 71 Atl. 535, 21 L.R.A. (N.S.) 93.

³ *Bennett v. Busch*, 75 N. J. L. 240, 67 Atl. 188; *Moon v. Matthews*, 227 Pa. St. 488, 76 Atl. 219, wherein the court said: "The fact that while acting for the master he may have disobeyed his commands does not take the act out of the scope of his employment."

⁴ *Winfrey v. Lazarus*, (Mo.) 128 S. W. 279; *Shamp v. Lambert*, (Mo.) 121 S. W. 772, citing 20 Am. & Eng. Enc. of Law (2d ed.) 163, 164; *Erjanschek v. Kramer*, 126 N. Y. S. 289.

⁵ *Steffen v. McNaughton*, 142 Wis. 49, 124 N. W. 1016.

⁶ *Doran v. Thomsen*, 74 N. J. L. 445, 66 Atl. 897.

§ 216. Using Car for Private Purposes Generally.

The owner of an automobile is not liable for injuries attributable to negligence in its operation, although at the time of such occurrence the car was being driven by his regularly employed chauffeur, if the chauffeur was not acting within the scope of his employment, but was using the car for his own purposes or pleasure.⁷ Similarly, if an agent, after business hours, takes the automobile furnished him by his employer for facilitating the performance of the duties of his agency, and starts out on a mission purely personal to himself and wholly independent of the affairs of the employer, the latter is not liable for the negligence of the agent in the operation of the automobile.⁸ Likewise, the owner of an automobile establishment, in which his son is employed as a clerk, is not liable for the negligent operation of one of the machines by the son while using it for his own personal pleasure; and in an action against the owner for an injury caused by the son's operation, evidence that prior to the injury the car had been used in a parade, and that it still wore the decorations, and might on account thereof attract attention and incidentally advertise the business, will not justify a finding by the jury that the son was about his father's business at the time of the accident.¹

⁷ *Patterson v. Kates*, 152 Fed. 481; *Danforth v. Fisher*, 75 N. H. 111, 71 Atl. 535, 21 L.R.A.(N.S.) 93; *Clark v. Buckmobile Co.*, 107 App. Div. 120, 94 N. Y. Supp. 771; *Quigley v. Thompson*, 211 Pa. St. 107, 60 Atl. 506.

⁸ *Slater v. Advance Thresher Co.*, 97 Minn. 305, 107 N. W. 133, 5 L.R.A.(N.S.) 598.

¹ *Reynolds v. Buck*, 127 Ia. 601, 103 N. W. 946.

§ 217. Permission from Owner.

The rule above stated is true in the absence of statute whether the car was being used by the chauffeur without authority² in disobedience of instructions,³ or with the consent and permission of the owner. In a case before the Appellate Division of the New York Supreme Court, it appeared that after the chauffeur had brought the defendant in the automobile to his residence, the chauffeur asked permission to use the automobile on a trip of his own. To this the defendant assented, telling the chauffeur to be careful and to return soon. While returning from his trip, the chauffeur's negligence in the management of the automobile caused an injury to the plaintiff. Three of the judges held that as an automobile is not necessarily a dangerous machine, and as the chauffeur was a competent operator, the mere permission to use the automobile for the chauffeur's own pleasure did not render the owner responsible for the chauffeur's negligence. From this conclusion two judges dissented. They pointed out that after having taken the owner to his residence it was the chauffeur's duty to return the automobile to the garage, and that the consent of the owner to the deviation by the chauffeur from the direct route did not terminate the chauffeur's duty to take proper care of the car and to house it properly for the night; in other words, that the chauffeur was not emancipated during the trip notwithstanding the

² *Danforth v. Fisher*, 75 N. H. 111, 71 Atl. 535, 21 L.R.A.(N.S.) 93; *Sarver v. Mitchell*, 35 Pa. Super. Ct. 69. The owner of an automobile is not liable to one who was run over by his incompetent chauffeur, where the machine was being operated without the knowledge or authority of the owner on a personal errand of the servant, since the act was not within the scope of the servant's employment. *Jones v. Hoge*, 47 Wash. 663, 92 Pac. 433, 14 L.R.A.(N.S.) 216, 125 Am. St. Rep. 915.

³ *Stewart v. Baruch*, 103 App. Div. 577, 93 N. Y. Supp. 161.

fact that it was for his own pleasure. The dissenting judges distinguished between cases in which an automobile is used by a chauffeur without the consent of the owner, and cases in which it is used with the owner's permission, holding that the facts of the case before the court imposed liability on the owner.

Statutory enactments, however, have been held to render the master liable if the chauffeur was operating the car with the consent of his employer.⁴

§ 218. Driving at Direction of Member of Owner's Family.

If the owner of a motor car maintains it for the convenience and at the service of the members of his household, the chauffeur acts within the scope of his employment in driving at the direction of one of the members of the owner's family.⁵ In a case before the Pennsylvania Supreme Court counsel for the defendant contended that at the time of the accident the chauffeur was not engaged in the defendant's business, and was acting in disobedience of his orders.

⁴In an action against the owner of an automobile to recover for injuries inflicted upon the plaintiff by being struck by the machine, it appeared that the defendant's chauffeur received permission to use his master's car for a few minutes to take some things to the house of a fellow servant, and that at the request of the daughters of the latter he took them for a ride. In doing so he negligently collided with and injured the plaintiff. The court held that a finding by the jury that the chauffeur was acting within the general scope of his employment at the time of the accident, and that the defendant had not proved that the accident did not happen through the chauffeur's negligence, was sufficiently supported by the evidence, in view of a statute regulating the speed and operation of motor vehicles, making the owner liable for any violation of the act, and casting on him the burden of relieving himself of liability for an accident occasioned by his machine. *Mattel v. Gillies*, 16 Ont. L. Rep. 558, 12 Ann. Cas. 970.

⁵*Winfrey v. Lazarus*, (Mo.) 128 S. W. 279 (owner absent from home, chauffeur driving in obedience to direction of daughter).

This claim was based upon evidence offered by the defendant, tending to show that he had forbidden the chauffeur to take out the car unless the defendant was with it, and that upon the night of the accident the car was taken out by the chauffeur, under the direction of the sister of the defendant, who made her home with defendant and was regarded as a member of the family. It was not pretended that the chauffeur was acting in any way upon his own business. The sister testified that she made up her party for an automobile ride, expecting to get her brother's consent when he came home; but that, as he was late in arriving, she ordered the chauffeur to take out the automobile upon her own responsibility. It also appeared from the evidence that, upon the morning after the accident, the defendant and his sister called upon the plaintiff, discussed the accident with him, and tried to arrange a settlement. Neither then nor at any time before suit was brought did it appear that the defendant disclaimed liability upon the ground that the chauffeur was not acting for the master at the time of the accident. The court affirmed a verdict for the plaintiff.⁶

§ 219. Deviating from Route.

A mere deviation from the direct route that a chauffeur should pursue in obedience to orders does not amount to an act outside the scope of his employment. Thus where a chauffeur took his employer's automobile out of the garage by the order of his employer's wife, and while taking it to her negligently collided with another vehicle, the court held that this was sufficient to raise the presumption that he was about his master's business so as to render the latter liable for the damage caused, although he was making a detour

⁶ Moon v. Matthews, 227 Pa. St. 488, 76 Atl. 219. And see the next preceding note.

instead of going directly to the place where he was ordered to take it, there being no evidence to show that he was using the automobile for his own ends.⁷ But the rule is otherwise if the chauffeur drives in an opposite direction to that in which he is ordered to proceed. Where a chauffeur, who had been directed to take a vehicle to a certain place, turned back before reaching his destination in order to take a friend about a mile back on the road, and when returning from the place to which he had conveyed his friend he negligently operated the car in such a manner as to collide with a horse and buggy on the highway, it was held that the chauffeur had temporarily abandoned his employment, and that therefore the owner could not be held liable for the accident.⁸ The court said: "The driver had temporarily abandoned his employment, and had gone off upon an expedition of his own, for a purpose in no way connected with his duty, but, on the contrary, opposed thereto, and I do not think that he could bind his master while he was engaged about his private affairs. Of course, he had no express authority to turn back for such a purpose, and I am unable to see upon what ground the master's assent to his deviation can be fairly implied."⁹

⁷ Long v. Nute, 123 Mo. App. 204, 100 S. W. 511.

⁸ Patterson v. Kates, 152 Fed. 481.

⁹ In Danforth v. Fisher, 75 N. H. 111, 71 Atl. 535, 21 L.R.A. (N.S.) 93, it appeared that on the day of the accident the person who was employed by the defendant as a chauffeur took the automobile from the place where it was kept, drove to the defendant's store, and awaited orders. He was told to get his supper and to be at a certain hotel with the automobile at a quarter before seven o'clock. After he had eaten supper, instead of taking the car to the hotel according to the defendant's order, he drove to a village a mile or two distant from his boarding place, and in an opposite direction from the hotel, for the purpose of calling upon a friend. At the time of the accident he had finished his call, and was on his way to the hotel.

§ 220. Using Car to Go to Meals.

If the conditions of the contract of employment do not embrace the use of the automobile by the chauffeur in going to his meals, the owner is not liable for negligence of the chauffeur in using the car for such purpose, unless the facts and circumstances of the case permit an inference that the use of the car on such occasions was within the privileges of the chauffeur's service for facilitating his labor, and consequently within the scope and course of his employment. In a recent Wisconsin case it appeared that the chauffeur, under his contract of service with the defendant, was to care for and operate the automobile at the request and direction of the defendant or any member of his family; that he was to devote his time to the performance of such services during the day, and was to perform the actual duties of a chauffeur; that the defendant did not undertake to furnish him his meals, and for his midday meal he was allowed to go to his home, about one mile distant from the defendant's residence where the automobile was kept; that he usually walked to his home for this meal; that he had used the automobile, probably ten times, to make this trip, without obtaining the permission or consent of the defendant or any member of his family so to do; that he so used the machine on the day of the accident; that he passed in and out of the defendant's premises adjacent to the house on such occasions; and that the defendant was at his home on some of them. The defendant testified that he at no time gave permission to or authorized the chauffeur so to use the automobile, and that he had no knowledge that it was being used by him for this purpose. The court said: "The

The court held that he was acting for himself, and not for the defendant, at the time, and that there was no error in an order of nonsuit.

conditions of the contract of employment, under which the chauffeur was to provide himself with meals, carried with it the further condition that he was to have the required time at noonday, and might leave the service for such a period of time as was required under the circumstances, for this personal and private purpose. While he was so engaged, his employment and the relation of master and servant were suspended for the time being, unless the facts of the case show that the defendant consented to the chauffeur availing himself of this use of the machine to facilitate his labor and service, and in furtherance of the defendant's interest. The evidence will not support this inference. It is reasonably clear and certain that the defendant by his words, acts, and conduct never gave consent or permission to, nor did the contract of employment authorize, such a use of the machine by the servant. The facts and circumstances fail to show that the chauffeur was performing an act in obedience to an order or direction of the defendant or a member of his family, or that he was doing something with the implied consent of the defendant."¹

§ 221. Surrendering Management of Car.

It is not ordinarily within the scope of employment of the driver of a motor car to delegate the duty of driving to another, and if he does so the owner is not liable for the negligence of the substituted driver. In a recent British case it appeared that a motor car, after having been repaired by the defendants, was sent back to the owner under the charge of a driver who was in the employment of the defendants. The driver received instructions from the defendants not to give up the driving to any one. At one stage of the journey a man not in the employment of the

¹ *Steffen v. McNaughton*, 142 Wis. 49, 124 N. W. 1016.

defendants accompanied the driver, who, hearing a noise at the back of the car, intrusted the driving to his companion while he himself went to the back of the car to see the cause of the noise. His companion, while driving, negligently drove the car against the plaintiff's van. In an action to recover damages in the County Court the jury found a verdict for the plaintiff. The Divisional Court held that as there was no necessity for keeping the car going while the driver examined the machinery, and therefore for intrusting the driving to the driver's companion, the defendants were not liable for the negligence of the latter. The case was taken to the Court of Appeals, which held that, as the question of the necessity to intrust the driving of the car to a third person was not raised in the County Court nor by the notice of appeal to the Divisional Court, it could not be raised afterwards, and that the verdict and judgment for the plaintiff must stand.²

§ 222. Under Other Circumstances.

The owner of a car had been driving it, and when he reached his place of business stepped out, whereupon his

² *Harris v. Fiat Motors*, 23 Times L. Rep. (Eng.) 504. But in an action to recover for personal injuries sustained by the plaintiff in consequence of the negligent operation of the defendant's automobile, wherein it was a disputed question of fact whether the machine had been left in the custody of the defendant's son or of his coachman, it was held that it was proper to grant the plaintiff's motion for a new trial, which motion was based on the refusal of the following instruction: "If the jury find either that the defendant left the automobile in charge of his son to take it home, or in charge of his son and coachman together to take it home, or in charge of the coachman alone, and the coachman neglected his duty in that regard, and allowed the son to run the machine, and by the negligence of the son the accident occurred, without contributory negligence on the plaintiff's part, then, in either case, the defendant is responsible and liable for that negligence and its consequences." *Collard v. Beach*, 81 App. Div. 582, 81 N. Y. Supp. 619.

employee, with his permission, attempted to turn the car around, and a collision occurred. It was held that the driver was not acting independently, but was serving his employer, and consequently was acting within the scope of his employment.³ But where the general manager of an automobile company, who had been away on his own private business, telephoned an employee of the company to meet him at the station, and on returning therefrom a person was injured by the alleged negligent operation of the machine, it was held that the company was not liable, as it was under no duty to transport the manager from the station, and the manager's use of the machine was on his own personal business and not on the business of the company.⁴ In a New Jersey case it appeared that the defendant, while on a business trip in an automobile, made his headquarters at a hotel, the automobile being kept in a garage several blocks away. On the evening of the accident, on arriving at the hotel, the defendant, after telling his chauffeur that he was going out in the car that night, directed him to go down stairs in the hotel and get kerosene oil. Instead of obeying this instruction literally, the chauffeur drove the automobile to the garage for the oil, and while on his way there the collision occurred. The court held that the question whether the chauffeur was acting within the general scope of his authority was properly submitted to the jury, although in this particular instance the use of the car was in disobedience of the literal instruction of the master.⁵

§ 223. Pleading.

In an action to recover damages for injuries sustained by reason of the negligent operation of another person's auto-

³ *Thomas v. Armitage*, 111 Minn. 238, 126 N. W. 735, 736.

⁴ *Clark v. Buckmobile Co.*, 107 App. Div. 120, 94 N. Y. Supp. 771.

⁵ *Bennett v. Busch*, 75 N. J. L. 240, 67 Atl. 188.

mobile while driven by his chauffeur, it must appear from the plaintiff's pleading that the chauffeur was acting within the scope of his employment at the time when the injury was inflicted.⁶ An allegation that the injury was done by the owner of the car or master by or through his chauffeur or servant is sufficient, it seems, because it necessarily connotes the idea that the servant was employed or directed to do the particular act.⁷ But if the plaintiff alleges that a certain person is the servant of another, without disclosing either explicitly or implicitly the scope of the employment, and then alleges an act done by the servant, there is no inference that the act was within the scope of the employment; and the pleading is demurrable as not setting out a cause of action against the principal.⁸

§ 224. Competency of Evidence—Cross-examination of Chauffeur.

In an action against the owner of an automobile to recover damages for personal injuries, where the chauffeur of the defendant is called by the plaintiff to show that he was in the employ of the defendant, and to identify the car, it is competent for the defendant on cross-examination to develop by the witness the fact that at the time of the accident he was using the machine in the prosecution of his own business and not in the business of his employer, and that in so doing he was acting contrary to the orders of his employer.⁹

⁶ See *Lewis v. Amorous*, 3 Ga. App. 53, 59 S. E. 338.

⁷ *Lewis v. Amorous*, 3 Ga. App. 53, 59 S. E. 338; *Lampe v. Jacobson*, 46 Wash. 536, 90 Pac. 654.

⁸ *Lewis v. Amorous*, 3 Ga. App. 54, 59 S. E. 338.

⁹ *Quigley v. Thompson*, 211 Pa. St. 107, 60 Atl. 506.

§ 225. Sufficiency of Evidence to Make Prima Facie Case.

By establishing that the defendant was the owner of the automobile and that the chauffeur was in his employ to operate it at the time of the injury complained of, the plaintiff, according to some courts, makes out a *prima facie* case that the chauffeur was acting within the scope of his employment at the time.¹⁰ Where a servant, who is employed for the special purpose of operating an automobile for the master, is found operating it in the usual manner such machines are operated, the presumption naturally arises that he is running the machine in the master's service. If he is not so running it, this fact is peculiarly within the knowledge of the master, and the burden is on him to overthrow this presumption by evidence which the law presumes he is in possession of.¹ A contrary view has been expressed, however, in this particular.²

¹⁰ *Stewart v. Baruch*, 103 App. Div. 577, 93 N. Y. Supp. 161. And in *Shamp v. Lambert*, 142 Mo. App. 567, 121 S. W. 772, the court said: "In this case it appears the defendant admitted he owned the automobile, and that the chauffeur in charge of the same at the time plaintiff received her injury was his chauffeur; that is to say, the chauffeur was his servant, employed for the purpose of managing and operating the automobile. These facts tended to prove the plaintiff received her injury through the negligence of defendant's servant while acting within the scope of his employment. And even though it does not appear that the chauffeur was present at the particular time and place in question by instruction from his master, or perchance in the performance of his duties in conveying his master either to or from the Union Station, it does appear that he was acting within the scope of his authority as defendant's chauffeur; that is to say, he was operating defendant's automobile, the very act for which he was employed."

¹ *Long v. Nute*, 123 Mo. App. 204, 209, 100 S. W. 511, 513.

² In *Lotz v. Hanlon*, 217 Pa. St. 339, 66 Atl. 525, 10 Ann. Cas. 731, 10 L.R.A.(N.S.) 202, 118 Am. St. Rep. 922, the court held that it is essential to a recovery that it shall be made to appear that the

§ 226. Inferences from Particular Facts.

Inferences arising from particular facts bearing upon the question whether the driver of a car was acting within the scope of his employment have been indicated by the courts in several instances. It has been held that the failure of the defendant to testify that the chauffeur was using the automobile for his own ends and without authority, and his failure to procure the evidence of the chauffeur, raises the presumption that the latter was about the master's business at the time of the accident and was in possession of the automobile by his consent.³ And the fact that personal friends of the chauffeur occupied the car at the time of the accident indicates, it seems, that the chauffeur was not acting for the owner of the car but on his own account.⁴

accident occurred while the person in charge of the automobile was using it in the course of his employment and on his master's business; and that proof showing that the plaintiff was run down by an automobile in a frequented street of a city after nightfall, that the machine was at the time occupied by four persons, one being the driver whose identity was established, and that the machine was registered in the name of the defendant as owner, does not make out a case sufficient to warrant a recovery. The court said: "Ownership of the machine in cases of this character is at best but a scant basis for the inference that was here sought to be derived from it. It is allowed as adequate only when the attending circumstances point to no different conclusion. In itself it is but one of a series of circumstances, and its significance depends on the extent of the general concurrence of these. If they indicate something different, the scant basis that this single fact otherwise might afford is reduced below the point of sufficiency." And in *Sarver v. Mitchell*, 35 Pa. Super. Ct. 69, the court held that if there is no evidence of the fact that the car was being used by the chauffeur in and about the business of the defendant, and there are no facts or circumstances in the case from which such use legitimately can be inferred, a nonsuit is proper.

³ *Long v. Nute*, 123 Mo. App. 204, 100 S. W. 511.

⁴ *Lotz v. Hanlon*, 217 Pa. St. 339, 66 Atl. 525, 10 Ann. Cas. 731, 10 L.R.A.(N.S.) 202, 118 Am. St. Rep. 922.

It has been held that where the defendant testifies that his chauffeur was driving at the time of the accident without authority and against his express command, it is error to charge the jury that they may consider as proof of the chauffeur's authority the fact that the defendant did not deny such authority at the time he was served with the summons.⁵

§ 227. Weight of Evidence.

The weight of evidence bearing upon the question whether the defendant's chauffeur was acting within the scope of his employment likewise has met with judicial consideration. Regarding the weight to be attached to testimony of the chauffeur that he disobeyed his employer's instructions and took the automobile out for his own pleasure on the day of the accident, the Appellate Division of the New York Supreme Court said: "The testimony of the chauffeur on this point is not improbable. Of course the defendant may have permitted the chauffeur to take the automobile to attend the races, but it is evident that this was attended with more or less wear and tear to the machine and expense of operating aside from risks of accident. It is also possible that the chauffeur would commit perjury for the sake of relieving his employer from liability or retaining his position; but it is not likely that this would be volunteered, and it is not probable that an employer would suggest this story to his servant."⁶

A nonsuit is properly entered, it has been held, where the evidence shows that the defendant's chauffeur and another person, a stranger to the master, were in the car at the

⁵ *McEnroe v. Taylor*, 56 Misc. 680, 107 N. Y. Supp. 565.

⁶ *Stewart v. Baruch*, 103 App. Div. 580, 93 N. Y. Supp. 161.

time of the accident, that the stranger was operating the car, that the chauffeur had taken the car out contrary to the defendant's general order not to take it out without the defendant's consent, and that the chauffeur's excuse for taking out the car to adjust the carburetor is met by proof that it was not his duty to fix the carburetor, and that it was not necessary to take the vehicle out of the garage for that purpose.⁷ In a case before the Pennsylvania Supreme Court it was shown that the automobile belonged to the defendant; that at the time of the accident it was being operated by his regular chauffeur, not upon any errand of his own, or to serve his own purposes, but in obedience to the order of the defendant's sister who was a member of the defendant's family; that the occupants of the car were friends of the defendant, and guests of his sister; and that the errand upon which the car was taken was entirely proper and fitting in itself. The court held that the evidence warranted a recovery, saying: "Under such circumstances, the burden was upon the defendant to show that the chauffeur was not acting within the scope of his employment, and upon the business for which he was employed by his master."⁸

§ 228. Functions of Court and Jury.

If the question whether the driver was acting within the scope of his employment is a matter of doubtful inference, it should be submitted to the jury.⁹

⁷ *Durham v. Strauss*, 38 Pa. Super. Ct. 620.

⁸ *Moon v. Matthews*, 227 Pa. St. 488, 76 Atl. 219.

⁹ *Bennett v. Busch*, 75 N. J. L. 240, 67 Atl. 188.

CHAPTER XV.

PASSENGERS IN MOTOR VEHICLES.¹

- § 229. Right to Recover for Injury.
- 230. Driver Guilty of Contributory Negligence.
- 231. Duty of Passenger in Hired Vehicle with Respect to Possible Danger.
- 232. Duty of Passenger in Private Vehicle Generally.
- 233. Care Required of Passenger in Private Vehicle.
- 234. Duty to Look and Listen.
- 235. Duty upon Crossing Railroad Tracks.
- 236. Liability of Passenger for Injury Occasioned by Negligence of Driver.

§ 229. Right to Recover for Injury.²

If a passenger in a hired motor vehicle sustains injury by reason of the negligence of the driver he is entitled, as a rule, to recover from the person owning, operating, and maintaining the vehicle.³ But if a passenger urges the driver of the vehicle to go at a high rate of speed, or if he acquiesces in the demand of other passengers that the car

¹ Responsibility of passenger refusing to pay fare, see *infra*, p. 263.

² Nonregistration of car as affecting a passenger's right of recovery, see *supra*, pp. 188-190.

³ *Routledge v. Rambler Automobile Co.*, (Tex.) 95 S. W. 749. *Omnibus Skidding*.—But the proprietor of a public motor omnibus is not guilty of negligence in allowing such vehicle to be operated at a time when the highway is in a slippery state and the vehicle likely to skid. A motor omnibus belonging to the defendants, in which the female plaintiff was a passenger, "skidded" upon a road the surface of which was greasy from rain, and ran into an electric light standard, and the plaintiff was in consequence injured. At the trial of an action brought by the plaintiff in respect of the injury so occasioned to her, there was no evidence given for the plaintiff of anything (beyond the above-mentioned facts) in the nature of negli-

be driven at a high rate of speed, and an accident occurs by reason of such high rate of speed, then he is not entitled to recover, because his negligence contributes to the result.⁴

§ 230. Driver Guilty of Contributory Negligence.

If a passenger riding in a motor vehicle and having nothing to do with its management sustains an injury by reason of the negligence of a third person, he is not barred from recovering damages therefor, according to some courts, by reason of the fact that the negligence of the driver of the vehicle contributes to the accident. In short, the negligence of the driver is not imputed to the passenger.⁵ The Appellate Division of the New York Supreme Court has said on this point: "The question as to the extent that a pas-

gence on the part of any servant of the defendants in the driving or management of the omnibus, or of any defect in the construction or condition of the particular omnibus, or that motor omnibuses generally were of such a character as to constitute a nuisance; but it was apparently assumed, and not disputed by the defendants, that motor buses, however well constructed, had a tendency to skid when the road was greasy. The court held that, upon the above-mentioned facts, there was no evidence for the jury that the defendant's allowing the motor omnibus to run under the circumstances constituted a nuisance, and that there could be no recovery. *Wing v. London Gen. Omnibus Co.*, [1909] 2 K. B. (Eng.) 652, 78 L. J. K. B. 1063, 101 L. T. N. S. 411, 73 J. P. 429, 7 Local Gov. Rep. 1093, 53 Sol. J. 713, 25 Times L. Rep. 729.

⁴ *Routledge v. Rambler Automobile Co.*, (Tex.) 95 S. W. 749.

⁵ *Dale v. Denver City Tramway Co.*, (C. C. A.) 173 Fed. 787; *Baltimore v. Maryland*, 166 Fed. 641, 92 C. C. A. 335; *Ward v. Brooklyn Heights R. Co.*, 119 App. Div. 487, 104 N. Y. Supp. 95 (affirmed without opinion 190 N. Y. 559, 83 N. E. 1134), reversing on reargument 115 App. Div. 104, 100 N. Y. Supp. 671; *Sherwood v. New York Cent., etc., R. Co.*, 120 App. Div. 639, 105 N. Y. S. 547; *Wilson v. Puget Sound Electric R. Co.*, 52 Wash. 522, 101 Pac. 50, 132 Am. St. Rep. 1044. But on the ground that the owner's maid and his chauffeur are fellow servants, the former is not entitled to recover of the master for injuries due to the negligence of the chauffeur. *Erjauschek v. Kramer*, 126 N. Y. S. 289.

senger in a vehicle is precluded from recovering by reason of the negligence of the driver or person operating the motive power of the vehicle has been much discussed, but it is settled in this state that the contributory negligence of the driver or operator of the vehicle is not chargeable against a passenger, but that in such a case the passenger is to be judged by the duty that the law imposes upon him under the circumstances existing at the time of the accident."⁶ This rule has been held to apply to passengers riding in private⁷ as well as public motor vehicles.⁸ Moreover, the fact that a passenger knows of and acquiesces in the manner in which the driver operates the vehicle, even if the latter is negligent in so doing, does not show necessarily that the passenger is negligent in remaining in the car. There can be no acquiescence in the driver's negligence so as to make it that of the passenger unless the latter knows or ought to know that the manner of operating the machine is negligent. The negligence of the driver must be so gross and so apparent that the passenger is bound to know of it in order to make him chargeable with it.⁹

Some courts have taken a contrary view in this respect, holding that the contributory negligence of the driver is imputed to the passenger;¹ but the parties must have been

⁶ *Noakes v. New York Cent., etc., R. Co.*, 121 App. Div. 716, 106 N. Y. Supp. 522.

⁷ *Ward v. Brooklyn Heights R. Co.*, 119 App. Div. 487, 104 N. Y. Supp. 95 (*affirmed* without opinion 190 N. Y. 559, 83 N. E. 1134), *reversing* on reargument 115 App. Div. 104, 100 N. Y. Supp. 671; *Noakes v. New York Cent., etc., R. Co.*, 121 App. Div. 716, 106 N. Y. Supp. 522, *affirmed* without opinion 195 N. Y. 543, 88 N. E. 1126.

⁸ *Baltimore v. Maryland*, 166 Fed. 641, 92 C. C. A. 335; *Wilson v. Puget Sound Electric R. Co.*, 52 Wash. 522, 101 Pac. 50, 132 Am. St. Rep. 1044.

⁹ *Clarke v. Connecticut Co.*, (Conn.) 76 Atl. 523 (*private car*).

¹ In *Lauson v. Fond du Lac*, 141 Wis. 57, 123 N. W. 629, 25 L.R.A. (N.S.) 40, 135 Am. St. Rep. 30, the court held that a passenger in a

engaged in a "joint enterprise" at the time of the occurrence of the injury, it seems. An agreement between the driver of a car and a passenger to share the expenses of a pleasure trip renders the "enterprise" joint within the rule.³

§ 231. Duty of Passenger in Hired Vehicle with Respect to Possible Danger.

Ordinarily the only obligation resting upon a passenger in a hired motor vehicle is to "sit tight."³ Such a passenger riding beside the driver is not guilty of contributory negligence in not warning, advising, or directing the driver in cases of emergency, or in not attempting to control the acts of the driver in passing other cars.⁴

private automobile is not entitled to recover for injuries caused by the negligence of a third person, if the driver of the car failed to exercise due care, and such failure contributed to produce the damage complained of. And in *Feeley v. Melrose*, 205 Mass. 329, 91 N. E. 306, 27 L.R.A.(N.S.) 1156, the court held that persons riding in a private automobile are not entitled to recover damages from a municipality for personal injuries resulting from a defect in the highway, where the injury is due in part to the negligence of the driver of the automobile. The court took the position that a recovery will not be denied in such case because the negligence of the driver is imputed to the plaintiffs, but because, by reason of such negligence, although the plaintiffs are not responsible therefor, the defect in the highway cannot be found to be the sole cause of the injury within the meaning of the decisions of the Massachusetts court. But in a suit for personal injuries sustained by the female plaintiff while riding in an automobile which collided with a street car, where it appeared that although she was riding as the invited guest of the driver of the automobile, there was no relation of agency or mutuality or common enterprise between her and the driver, and that she did not attempt to interfere with his management, it was held that even if the driver was negligent as a matter of law, the question whether the plaintiff exercised due care was for the jury. *Chadbourne v. Springfield St. R. Co.*, 199 Mass. 574, 85 N. E. 737.

³ *Beaucage v. Mercer*, 206 Mass. 492, 92 N. E. 774.

⁴ *Wilson v. Puget Sound Electric R. Co.*, 52 Wash. 522, 101 Pac. 50, 132 Am. St. Rep. 1044.

⁴ *Wilson v. Puget Sound Electric R. Co.*, *supra*.

§ 232. Duty of Passenger in Private Vehicle Generally.

A passenger in a private automobile ordinarily is not expected to give advice or direction as to the control and management of the car. To do so might be harmful rather than helpful. But his presence in the vehicle may so obstruct the driver's view of a street car, railway train, or other approaching vehicle, or other circumstances of the situation may be such, as to make it his duty to look out for threatened or possible dangers and to warn the driver of them after their discovery. This may be necessary for the passenger's safety as well as for that of the driver.⁵

§ 233. Care Required of Passenger in Private Vehicle.

The law fixes no other standard of duty for a passenger in a car than for the driver thereof. Each is bound to use reasonable care. But manifestly the conduct which the exercise of reasonable care requires of such a passenger will not be ordinarily, if in any case, the same as that which it imposes upon the driver. What conduct on the passenger's part is necessary to comply with this duty must depend upon all the circumstances; and whether the obligation has been discharged in a particular case is generally a question for the jury. While the standard of duty is the same, the conduct required to fulfil that duty is ordinarily different because their circumstances are different.⁶

§ 234. Duty to Look and Listen.

The character of the vehicle in which a person is a passenger, or his location in it, or the other circumstances may be such that to look or listen for possible dangers would be unnecessary and useless. For such a passenger to engage

⁵ *Brommer v. Pennsylvania R. Co.*, 179 Fed. 582, 103 C. C. A. 135.
Clarke v. Connecticut Co., (Conn.) 76 Atl. 523.

⁶ *Clarke v. Connecticut Co.*, (Conn.) 76 Atl. 523.

in conversation with fellow passengers, and entirely neglect to look out for dangers or to observe the manner in which the vehicle is being operated, may be the conduct of a reasonably prudent person. It cannot be said, therefore, that in every case and all the time it is the duty of a gratuitous passenger to use his senses or to look and listen in order to discover approaching vehicles or other dangers, or that his failure to do so would be a failure to exercise due care.⁷

§ 235. Duty upon Crossing Railroad Tracks.

There is no doubt that a traveler approaching a railroad track is bound before crossing the track to use both his eyes and his ears to discover if possible whether a train is approaching. This rule applies in a general sense to a passenger in an automobile approaching a railroad as well as to the person in charge of the motive power of the vehicle.⁸ But it is evident that in determining in any particular case whether or not a failure to look or listen was negligence contributing to an accident, the age, condition, and situation of the plaintiff, the existing circumstances, and the conditions in which the plaintiff was as the vehicle approached the track are to be considered.⁹ If the passenger is occupy-

⁷ *Clarke v. Connecticut Co., (Conn.) 76 Atl. 523.*

⁸ *Noakes v. New York Cent., etc., R. Co., 121 App. Div. 716, 106 N. Y. Supp. 522, affirmed without opinion 195 N. Y. 543, 88 N. E. 1126.*

⁹ *Read v. New York Cent., etc., R. Co., 123 App. Div. 228, 107 N. Y. S. 1068.* In *Noakes v. New York Cent., etc., R. Co., 121 App. Div. 716, 106 N. Y. Supp. 522, affirmed without opinion 195 N. Y. 543, 88 N. E. 1126*, it appeared that the plaintiff, a girl sixteen years of age, was riding in an automobile owned by her father and controlled by her father's servant. No relation of master and servant or principal and agent existed between her and either the chauffeur who had the control of the machine or her father under whose direction it was being operated. She was not in a position where she could give orders to either, and she was not responsible for the management or control

ing a seat beside the driver he is in an even better situation to look for an approaching train than is the driver, since his attention is not distracted by the work of operating the vehicle. Under such circumstances it is his duty to observe dangers and to avoid them by suggestion and protest to the driver.¹

of the conveyance. In holding that, considering the age and sex of the plaintiff and the circumstances under which she was riding in the automobile, it was a question for the jury whether she was guilty of negligence which contributed to the accident, the court said: "It is clear that it is not in every case that a failure to look or listen would be negligence, as in the case of a passenger in a street car approaching a railroad track where the car is entirely under the control and management of those charged with its management, or in the case of a very young child in a conveyance approaching the track. For, as I view it, it must not only appear that there was a failure to look and listen, to constitute contributory negligence as a matter of law, but it must also appear that there was nothing in the age or condition of the person injured or in the attending circumstances which excused or would have rendered unavailing any knowledge that was acquired by the person injured." In *Clarke v. Connecticut Co.*, (Conn.) 76 Atl. 523, which was an action for damages sustained by the plaintiff while riding with her husband, by reason of a collision with an east-bound electric car of the defendant company, it appeared that the plaintiff was seated upon the left of her husband, the side from which the car approached, that there was a clear view of the defendant's track for more than half a mile to the west from a point thirty-five feet south of the track until the plaintiff reached the track, that they were alone in the automobile, and that they were not at the time engaged in any conversation. The plaintiff claimed, but it was disputed, that the automobile was going at a speed of not more than four to six miles per hour. It was claimed by the defendant, but disputed, that the motorman sounded his gong as he approached the crossing. Both the plaintiff and her husband claimed to have looked to see whether a car was approaching, and the plaintiff claimed to have listened also. The court held that it was a question for the jury whether the evidence established the plaintiff's freedom from contributory negligence.

¹ *Brommer v. Pennsylvania R. Co.*, 179 Fed. 582, 103 C. C. A. 135.

§ 236. Liability of Passenger for Injury Occasioned by Negligence of Driver.³

A person riding in a motor vehicle is liable for injuries inflicted by its negligent management if he was in the possession and control of the car, although he was not the driver thereof.³ If he was in control of the vehicle so as to be able to govern its management or operation, any negligence in such management or operation is his negligence.⁴ But if the vehicle at the time of the accident was entirely operated and controlled by some one other than such passenger the latter is not liable.⁵

³ Passenger riding in hired vehicle, see *infra*, pp. 271-274.

⁴ *Conflict between General Verdict and Answers to Interrogatories.*—Where the complaint alleges that all the occupants of the automobile were in the possession and control of it at the time plaintiff was run against and injured, one of the occupants cannot escape liability imposed by a general verdict upon the ground that answers to interrogatories submitted to the jury show that he had nothing to do with the injuries inflicted, and that he was not in control of the automobile. The conflict between the general verdict and the answers to interrogatories is not irreconcilable. *Apperson v. Lazro*, 44 Ind. App. 186, 87 N. E. 97, 88 N. E. 99.

⁴ *Simeone v. Lindsay*, 6 Penn. (Del.) 224, 229, 65 Atl. 778.

⁵ *Simeone v. Lindsay*, 6 Penn. (Del.) 224, 229, 65 Atl. 778.

CHAPTER XVI.

PENAL AND CRIMINAL RESPONSIBILITY.

At Common Law.

- § 237. Criminal Responsibility for Homicide.
- 238. Defenses.
- 239. Indictment or Information.
- 240. Evidence.
- 241. Nuisance in Operation of Vehicle.

Under Motor Vehicle Statutes Generally.

- 242. Interpretation of Statutes.
- 243. Persons Liable.
- 244. Notice of Intended Prosecution.
- 245. Nature of Proceeding for Recovery of Fine.
- 246. Jurisdiction of Prosecutions.
- 247. Indictment, Information, or Complaint.
- 248. Evidence.
- 249. Several Convictions for Same Act.
- 250. Fine or Penalty.
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- 257. Speeding Generally.
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- 259. Persons Liable for Speeding.
- 260. Proof of Speeding.
- 261. Stopping on Signal.
- 262. Stopping in Case of Accident.
- 263. Disclosing Identity of Driver.
- 264. Lights, Brakes, etc.
- 265. Traction Engines.

Other Offenses Relating to Motor Vehicles.

- § 266. Warning Speeders of Presence of Officers.
267. Refusal of Passenger to Pay Fare.
268. Nonregistration of Taximeter.

*At Common Law.*¹**§ 237. Criminal Responsibility for Homicide.**

If the operator of a motor vehicle, with reckless disregard for the safety of others, so negligently drives his vehicle in a public highway as to cause the death of a person thereon, he is guilty of criminal homicide.² It has been said that "one who wilfully drives an automobile in a public street of this state at a rate of speed or in a manner expressly forbidden by statute, and thereby causes the death of another, or one who, with reckless disregard for the safety of others, so negligently drives an automobile in a public street as to cause the death of another, is guilty of criminal homicide."³

§ 238. Defenses.

The rule of law concerning contributory negligence by the injured person as a defense in a civil action for damages for personal injuries has no application in a criminal prosecution for causing the death of another by driving in a negligent manner. If the culpable negligence of the accused was the cause of death, he is responsible under the criminal law, whether a failure of the deceased to use due care contributed to his injury or not.⁴ And if the unlawful act of

¹ As to the liability of an owner for the negligence of his chauffeur, see *supra*, p. 203.

² *State v. Goetz*, 83 Conn. 437, 76 Atl. 1000; *State v. Watson*, 216 Mo. 420, 115 S. W. 1011, holding the evidence in this case sufficient to support a verdict of manslaughter.

³ *State v. Campbell*, 82 Conn. 677, 74 Atl. 927, 135 Am. St. Rep. 293.

⁴ *State v. Campbell*, 82 Conn. 671, 74 Atl. 927, 135 Am. St. Rep. 293.

the accused in running his automobile recklessly rendered ineffectual his later best efforts to avoid the collision, when he first saw that the deceased was in danger, he is not entitled to an acquittal.⁵

§ 239. Indictment or Information.

An information alleging that the defendant, with force and arms, wilfully and feloniously made an assault upon a certain person, in that he wilfully and feloniously forced, drove, and propelled upon and against him a certain motor vehicle, which the defendant was propelling in the highway at an unlawful, high, and dangerous rate of speed, and in an improper, reckless, and negligent manner, and thereby so wounded and injured such person that he died; and that the accused did thereby feloniously and wilfully kill and slay such person—charges the common-law crime of involuntary manslaughter by culpable negligence.⁶ It is not essential that the information should undertake to set out in detail in what the carelessness, recklessness, and culpable negligence of the accused consisted. A charge that he operated and propelled an automobile along a public street carelessly, recklessly, and with culpable negligence, in effect notifies the defendant that he was not using, operating, or propelling his automobile in accordance with the law or ordinances regulating the use and operation of such vehicles.⁷

In this case the state was required to prove the alleged unlawful act of the accused and its consequences, but not that the deceased exercised due care to avoid the consequences of that unlawful act.

⁵ State v. Campbell, 82 Conn. 671, 676, 74 Atl. 927, 135 Am. St. Rep. 293.

⁶ State v. Campbell, 82 Conn. 671, 676, 74 Atl. 927, 135 Am. St. Rep. 293.

⁷ An information charged that the defendant was in charge and control of and operating and managing a certain automobile, moving and being propelled upon a public highway of a city, and that he then

§ 240. Evidence.

In a prosecution for manslaughter in negligently running over a child, where the issue is negligence to a degree of recklessness and inhumanity, the defendant may introduce evidence of his general reputation for skill, care, and intelligence in the operation of his automobile, and that he is a careful and humane man in his relations with other persons.⁸ But evidence of the defendant's reputation as a skilful chauffeur, or that he was considered a careful driver by those who had ridden with him, is inadmissible where the facts disclose gross negligence.⁹

and there feloniously, carelessly, recklessly, and with culpable negligence did drive, propel, and force said automobile with great force and violence at, against, and upon a named individual. Then followed a charge of the infliction of wounds by reason of such carelessness, recklessness, and culpable negligence, and it was charged that the defendant carelessly, recklessly, and with culpable negligence did with great force and violence throw and cast the person in question to the ground and pavement, and did drive, propel, and force two of the wheels of the automobile against, upon, and over his head and body, thereby inflicting certain designated wounds and bruises, from which such person died. The court held that this was a sufficient charge and fully informed the defendant of the nature and character of the offense he was called upon to answer. *State v. Watson*, 216 Mo. 420, 432, 115 S. W. 1011.

⁸ *Com. v. Le Flem*, 16 Pa. Dist. Ct. 13.

⁹ *State v. Goetz*, 83 Conn. 437, 76 Atl. 1000. In this case it appeared that the accused was driving down a hill at some twenty miles an hour. Apparently he did not attempt to slacken his speed when he first saw the deceased upon a cross-walk on the same side of the trolley track upon which he was driving, or until he was within ten feet of the cross-walk. The court said: "Clearly, his car was going so rapidly when he was within ten feet of the cross-walk, that he could not stop it quickly enough to prevent running upon the people whom he had seen on the cross-walk when he was at a distance of about 250 feet from them. That the accused had theretofore had the reputation of being a careful driver, and had been so regarded by those who had ridden with him, did not tend to prove that he was not guilty of gross negligence in continuing

An opinion as to the rate of speed at which the defendant was driving at the time of the accident may be expressed by any person who was an eyewitness and knows what an automobile is and has seen such vehicles operated.¹

If the defendant did not know that he had struck anybody, such want of knowledge indicates that he was operating his automobile at a careless and reckless rate of speed.²

§ 241. Nuisance in Operation of Vehicle.

The operation of a motor vehicle of such a construction or in such a manner as to constitute a nuisance upon the highway is an indictable offense at common law.³ The question what constitutes such a nuisance is considered in another connection.⁴

Under Motor Vehicle Statutes Generally.

§ 242. Interpretation of Statutes.

While the language of the statute regulating the operation of motor vehicles must be construed to effect the purpose of the legislature, yet in view of the fact that a violation thereof is made a misdemeanor, it should not be

to drive his car at the speed at which he did after he first saw the deceased on the cross-walk, nor excuse such action."

¹ State v. Watson, 216 Mo. 433, 115 S. W. 1011. And see *supra*, §§ 111, 112, 113.

² State v. Watson, 216 Mo. 420, 434, 115 S. W. 1011, wherein the court said: "Manifestly, had he been operating this machine at a speed of only ten miles an hour, he would not have failed to have heard the noise and screams made by the little girls, nor would the striking of the body of this little girl which inflicted the fatal injuries upon her have failed to impress him that some one had been struck by his machine."

³ Reg. v. Chittenden, 15 Cox C. C. (Eng.) 725, 49 J. P. 503. Com. v. Allen, 148 Pa. St. 358, 23 Atl. 1115, 16 L.R.A. 148, 33 Am. St. Rep. 830.

⁴ See *supra*, §§ 18, 194.

extended beyond its evident purpose;⁵ and in a prosecution thereunder the interpretation of the act must be most favorable to the accused.⁶ Penal statutes affecting persons traveling on the highway are not to be enlarged by implication or extended by inference to include motorists. This rule was announced in a prosecution for violating an ordinance which was in the following terms: "Whoever shall in this city ride or drive any horse, mule, or other beast faster than an ordinary traveling gait, or who shall recklessly ride or drive so as to endanger the safety of others, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined."⁷ The court said: "It is clear that this ordinance was intended to regulate the riding and driving of horses, mules, and other beasts, and does not include vehicles not drawn by horses, mules, or other beasts. That the city may reasonably regulate the speed of bicycles, automobiles, or any other means of conveyance within its limits, cannot be disputed. But it has not attempted to do so in this ordinance."

The statute, if the intention is expressed with sufficient clearness, may apply to offenses created subsequently to its passage. If there was at the time of passing the act an existing authority with power to make the regulations, the mere fact that that power was not exercised until after the act came into force is not a sufficient ground for holding that it was not intended to apply to breaches of the regulations when made.⁸

⁵ *Mahoney v. Maxfield*, 102 Minn. 377, 113 N. W. 904, 12 Ann. Cas. 289, 14 L.R.A.(N.S.) 251.

⁶ *Caufman's Case*, 35 Pa. Co. Ct. 417.

⁷ *Shawnee v. Landon*, 3 Okla. Crim. 440, 106 Pac. 652.

⁸ *Rex v. Plowden*, [1909] 2 K. B. (Eng.) 269, 78 L. J. K. B. 733, 100 L. T. N. S. 856, 73 J. P. 266, 7 Local Gov. Rep. 584, 25 Times L. Rep. 430.

§ 243. Persons Liable.

The person in control of a car at the time of a violation of the motor vehicle statute ordinarily is the person who is liable for such violation.⁹ Where the statute prohibits the use of motor vehicles without specified appliances the user by implication is the person who is liable to the penalty for its violation.¹ In a prosecution for violating the statute the defendant must be connected with the act.²

If a corporation owns a large number of cars and operates them, as it necessarily must operate them, by agents, and these agents violate the statute, the corporation is responsible for the penalties imposed thereby.³

⁹ State v. Myette, 30 R. I. 556, 76 Atl. 664. As to the liability of the owner of a car for the negligence of his chauffeur, see *supra*, § 194.

¹ State v. Myette, 30 R. I. 556, 76 Atl. 664. And see *supra*, § 65.

² A conviction of an automobile owner before a magistrate, for violating the speed law, will be set aside where there is no evidence that he was riding in the automobile or that it was being used for his purposes and by his consent. *Com. v. Bacon*, 35 Pa. Co. Ct. 429.

³ *Provincial Motor Cab Co. v. Dunning*, [1909] 2 K. B. (Eng.) 599, 78 L. J. K. B. 822, 101 L. T. N. S. 231, 73 J. P. 387, 7 Local Gov. Rep. 765, 25 Times L. Rep. 646. This was a prosecution under an act providing that whenever during the period between one hour after sunset and one hour before sunrise a motor car is used on a public highway a lamp shall be kept burning on the car, so contrived as to illuminate, by means of reflection, transparency, or otherwise, and render easily distinguishable every letter or figure on the identification plate fixed on the back of the motor car. The appellants, a limited company, who were motor cab proprietors, were convicted before a magistrate of aiding and abetting a driver in their service in using a motor cab in contravention of the above regulation, on the following facts: The driver was using a motor cab more than one hour after sunset, having a lamp, which was lighted, hanging too low to illuminate the identification plate. The motor cab was fitted with a proper and permanent bracket on which to hang the lamp. The appellants had in their service a foreman who was charged by them with the duty of seeing that the cabs left their premises in such a condition as to comply in all respects with the requirements of statute. The magistrate found that the appellants were careless

§ 244. Notice of Intended Prosecution.

By some statutes it is provided that a person who is prosecuted for an offense under the act shall not be convicted unless he is warned of the intended prosecution at the time the offense is committed, or unless notice of the intended prosecution is sent to him or to the owner of the car as entered on the register within a specified time after the offense is committed.⁴ The warning referred to in the act need not be in terms a threat of prosecution.⁵ And the notice required by this provision may be left at the residence of the defendant;⁶ and if the defendant is not mis-

in not seeing to it that a proper lamp was fixed on the cab. The appellate court held that there was evidence on which the appellants might be convicted of aiding and abetting their driver in committing a breach of the regulation in question.

⁴ Consult local statutes.

⁵ A constable seeing a motor car approaching him at what he considered an excessive speed stopped the car and informed the driver thereof that he thought he was exceeding the speed limit, but that if after he, the constable, had compared the time taken by his watch with that of another constable it appeared that he, the driver, had not exceeded the speed limit, he would hear nothing further about it. It was held that this was sufficient warning to the driver of the intended prosecution within the act. *Jessopp v. Clarke*, 99 L. T. N. S. (Eng.) 28, 72 J. P. 358, 6 Local Gov. Rep. 686, 24 Times L. Rep. 672.

⁶ *Martin v. Brooman*, 73 J. P. (Eng.) 484, 25 Times L. Rep. 783. In this case the appellant was charged with driving a motor car at a speed exceeding twenty miles an hour contrary to the Motor Car Act. Written notice of the intended prosecution was sent to him by a police officer, who left it with the porter employed at and in charge of the chambers where the appellant resided. The police officer informed the porter of the purpose of the notice, and the appellant did not go into the witness box to deny having received it. The police officer stated that he was afterwards told by the porter that the notice had been given to the appellant. The court held that the giving of the notice to the porter was *prima facie* evidence that it had been "sent" to the appellant, and that there was *prima facie* evidence that the porter had authority to receive letters, etc., for the appellant.

led by it, it will not be held to be insufficient although it is indefinite in terms; but the notice should be in writing, it seems, and should set forth the nature, place, and time of the offense. A mere verbal statement made by an officer in conversation with the defendant is not sufficient.⁷

§ 245. Nature of Proceeding for Recovery of Fine.

Under the statutes existing in some jurisdictions a proceeding for the recovery of a fine incurred by a violation of the statute relating to automobiles must be in form a criminal prosecution and not a civil action.⁸ Whether the prosecution should be brought in the name of the commonwealth or in the name of the municipality to which the fine or penalty is payable, seems to be a matter of some doubt. Where the fine or penalty recoverable for a violation of the statute is not payable in whole or in part to the commonwealth, but to a municipal division thereof, a prosecution must be instituted in the name of such municipal division.⁹

§ 246. Jurisdiction of Prosecutions.

The provision of the statute conferring jurisdiction of prosecutions for its violation upon any "magistrate or justice of the peace" includes those persons who are clothed with police powers for the conservation of the peace and

⁷ Hughes v. Nimmo, [1910] Sc. Ct. Sess. 45.

The notice of an intended prosecution alleged the offense to have been committed between two places which were from ten to twenty miles apart. It was held that as the defendant was not misled by it the notice was valid. Beresford v. St. Albans, 22 Times L. Rep. (Eng.) 1.

⁸ State v. Hamley, 137 Wis. 458, 119 N. W. 114.

⁹ A warrant for the arrest of a motorist who is charged with violating the statute setting forth that he is required to "answer the commonwealth" is fatally defective. *Caufman's Case*, 35 Pa. Co. Ct. 417, 18 Pa. Dist. Ct. 25. Compare *Com. v. Quander*, 18 Pa. Dist.

the suppression of crime.¹ A prosecution for a second offense under the Pennsylvania statute² is within the jurisdiction of a magistrate or justice of the peace and not within that of a court of quarter sessions.³

§ 247. Indictment, Information, or Complaint.

Where there appears in the enacting clause of the statutes an exception to the general denunciation thereof, an indictment charging a violation of the act must negative such exception.⁴

The term "unlawfully," as used in a complaint to describe the manner in which the defendant drove his motor car at the time of a collision, negatives, it seems, any inference that the collision was an innocent accident.⁵

§ 248. Evidence.

The constable who stopped the defendant at the time of the commission of the offense may testify that the name and address on the license exhibited to him by the defendant was that of the defendant.⁶ And in establishing that a person on trial for a violation of the Motor Vehicle Act is the same person who was previously convicted under the act, evidence is admissible to show that the person previously

Ct. 973. In *Com. v. Pfeiffer*, 35 Pa. Co. Ct. 476, it was held that the proceeding should be brought in the name of the treasurer of the township within which the offense was committed.

¹ *The burgess of a borough* is a "magistrate or justice of the peace" within the meaning of the statute. *Com. v. Templeton*, 16 Pa. Dist. Ct. 793, 33 Pa. Co. Ct. 415.

² Act of April 19, 1905, P. L. 217.

³ *Com. v. Knight*, 36 Pa. Co. Ct. 91.

⁴ *Byrd v. State*, (Tex.) 129 S. W. 620.

⁵ *State v. Welford*, 29 R. I. 450, 72 Atl. 396.

⁶ And such evidence is admissible if the defendant is in court although no notice to produce the license has been given. *Marshall v. Ford*, 99 L. T. N. S. (Eng.) 796, 72 J. P. 480, 6 Local Gov. Rep. 1126.

convicted produced to a constable a license bearing the same number as that of the license issued to the defendant.⁷ Where it is shown that an automobile was registered in a person's name at the time of a violation of the statute, such fact warrants a finding that the person in question was the general owner of such automobile or that he had a special property therein which gave him control thereof.⁸ But the cost of an automobile is immaterial in a prosecution arising out of its operation.⁹

§ 249. Several Convictions for Same Act.

Although a driver so operates his car as to violate more than one of the provisions of the statute, he cannot lawfully be convicted more than once for the same act of wrongdoing. Thus where the statute forbids the driving of automobiles at a speed which is dangerous to the public, and in another section limits the speed to a certain number of miles per hour, a conviction upon a charge of violating the former provision by driving at excessive speed is a bar to a prosecution under the latter section;¹ but by express provision of the statute in some jurisdictions a conviction for a violation of any provision thereof is not a bar to a prosecution for an assault or for a homicide committed by a person in operating a motor vehicle.²

§ 250. Fine or Penalty.

The statutes regulating the use and operation of motor vehicles usually provide that a violation of the provisions

⁷ *Martin v. White*, [1910] 1 K. B. (Eng.) 665.

⁸ *Com. v. Sherman*, 191 Mass. 439, 78 N. E. 98.

⁹ *People v. Scanlon*, 132 App. Div. 528, 117 N. Y. Supp. 57.

¹ *Welton v. Taneborne*, 99 L. T. N. S. (Eng.) 668, 72 J. P. 419.

⁶ *Local Gov. Rep.* 891, 21 *Cox C. C.* 702, 24 *Times L. Rep.* 873.

² See for example *N. Y. Laws* 1910, c. 374.

thereof shall constitute a misdemeanor punishable by a fine.³ The fines and forfeitures received by a justice of the peace for violations of the New Hampshire automobile statute (Laws 1905, c. 86, p. 498) belong to the county and not to the town wherein the offenses occurred.⁴

§ 251. Indorsement of Conviction on License.

It has been provided in many instances that when any person has been convicted of violating the automobile statute, the particulars of the conviction shall be indorsed upon his license. And a failure to produce the license for the purpose of indorsement is made an offense.⁵ The offenses which require indorsement of the license in case of conviction are only those connected with the operation of a motor car, such, for example, as operating a car without complying with the requirement as to lights.⁶ Where the statute requires indorsement in case of conviction of "any offense in connection with the driving of a motor car," a conviction of leaving a motor car unattended and thereby obstructing the highway should not be indorsed on the driver's license, because the words quoted point to offenses connected with the handling or manipulation of the car in the process of driving.⁷ But it is not essential that the regulations violated should have been passed previously to the enactment of the statute.⁸

³ Consult the statutes.

⁴ *Rockingham County v. Chase*, 75 N. H. 127, 71 Atl. 634.

⁵ Consult the statutes. A conviction was sustained in *Brown v. Crossley*, [1911] 1 K. B. 603, [1911] W. N. 31.

⁶ *Ex p. Symes*, [1910] W. N. (Eng.) 219, 103 L. T. N. S. 428, 27 Times L. Rep. 21.

⁷ *Rex v. Justices*, [1910] 1 K. B. (Eng.) 439 following *Rex v. Lyndon*, 72 J. P. 227. But a refusal to produce one's license is such an offense. *Brown v. Crossley*, [1911] 1 K. B. 603, [1911] W. N. 31.

⁸ A court before whom a person is convicted of a third offense

§ 252. Review of Conviction.

In some jurisdictions where a person has been convicted before a magistrate of a violation of the motor vehicle laws and has voluntarily paid the fine and costs, the proceeding is not reviewable;⁹ and under some statutes no right of appeal exists unless the fine imposed exceeds a specified amount.¹ Costs are not to be considered in computing this amount.²

A Court of Special Sessions in New York is without jurisdiction to impose a fine of more than fifty dollars for operating an automobile upon a public highway at a rate of speed greater than that prescribed by the statute. Upon appeal from the judgment of conviction, in such a case, where a fine of one hundred dollars was imposed, the County Court has no authority to remit the record to the court below for the correction of the error by the imposition of a fine within the jurisdiction of the court, but must reverse the judgment and declare it null and void.³

of driving a motor car in a park at a speed exceeding the limit prescribed by the park regulations has power to indorse the driver's license under the British Motor Car Act, 1903, notwithstanding the park regulations prescribing the speed limit were not made until after the Motor Car Act had come into force. *Rex v. Plowden*, [1909] 2 K. B. (Eng.) 269, 78 L. J. K. B. 733, 100 L. T. N. S. 856, 73 J. P. 266, 7 Local Gov. Rep. 584, 25 Times L. Rep. 430.

⁹ *Com. v. Nickolson*, 35 Pa. Co. Ct. 556. See also *Com. v. Woodhead*, 18 Pa. Dist. 549.

¹ *Ex p. Novis*, [1905] 2 K. B. (Eng.) 456, 74 L. J. K. B. 633, 21 Times L. Rep. 517.

² The term "fine" in the act does not include the costs which the defendant is ordered to pay. *Ex p. Novis*, [1905] 2 K. B. (Eng.) 456, 74 L. J. K. B. 633, 21 Times L. Rep. 517. If an appeal from an order suspending a driver's license has been dismissed for lack of jurisdiction, it does not operate to annul the order. *Kidner v. Daniels*, 102 L. T. N. S. (Eng.) 132, 74 J. P. 127, 8 Local Gov. R. 159.

³ *People v. DeGraff*, 56 Misc. 429, 107 N. Y. Supp. 1038.

*Particular Statutory Offenses.***§ 253. License, Registration, and Display of Number.**

The making of a false statement in the verified application for registration is constituted a misdemeanor by many statutes. Likewise the operation of a motor vehicle while the certificate of registration is suspended or revoked has been made a misdemeanor;⁴ and it is an offense to operate a car without having the registered number displayed thereon.⁵ Also it is an offense to drive a motor car having an identification plate, the letters and figures of which are not in accordance with the requirements.⁶ But in the absence of express provision the owner of a car is not guilty of an offense in making or having made a duplicate set of tags or plates, or in lending either the original or the duplicate set.⁷ And in case such owner lends the duplicate set to another person he is not punishable for the act of such other person in violating the statute.⁸

Any chauffeur operating a motor vehicle while his license is suspended or revoked is declared by many acts to be guilty of a misdemeanor.⁹

§ 254. Obstructing Street or Highway.

For public vehicles to stop or loiter upon the street has been constituted an offense by statute or ordinance. Automobiles are within the meaning of this regulation,¹ and in case of its violation either the owner or driver of the car

⁴ See for instance N. Y. Laws 1910, c. 374.

⁵ *Com. v. Butler*, 204 Mass. 11, 90 N. E. 360.

⁶ *The driver's license may be indorsed*, therefore, in case of conviction. *Rex v. Gill*, 100 L. T. N. S. 858, 73 J. P. 290, 7 Local Gov. Rep. 589.

⁷ *Com. v. David*, 33 Pa. Co. Ct. 12.

⁸ *Com. v. David*, 33 Pa. Co. Ct. 12.

⁹ See for example N. Y. Laws 1910, c. 374.

¹ See *supra*, § 4.

may be held liable.³ But proof that an automobile stood in front of a hotel for two hours is not sufficient to sustain a charge that the free passageway of a street has been unnecessarily obstructed and traffic thereon hindered and delayed.³ Under a statute declaring in absolute terms that where traffic is congested slow-moving vehicles must keep near the right curb, thereby allowing rapidly moving vehicles to use the middle of the street, a driver may be convicted although he was not blocking any traffic. The prosecution in such case does not proceed upon the theory that the defendant was blocking the street, but that he disobeyed the command of the statute.⁴ A hotel proprietor, it seems, may keep automobiles standing in front of his hotel for the use of guests without incurring the penalty of the statute;⁵ and admitting that he cannot lawfully rent them except to his guests, it would work an injustice to convict him of the offense of unnecessarily obstructing the free passageway of the street and delaying traffic thereon merely because such an automobile chances to be rented to some one coming into the hotel and engaging it, who proves not to be a guest.⁶

³ *Gassenheimer v. District of Columbia*, 26 App. Cas. (D. C.) 557, 6 Ann. Cas. 920.

³ *Gassenheimer v. District of Columbia*, 25 App. Cas. (D. C.) 179, 182.

⁴ *State v. Bussian*, 111 Minn. 488, 127 N. W. 495.

⁵ See *New York Taxicab Co. v. Hawk*, 68 Misc. 555, 125 N. Y. Supp. 220. But where the owner of automobiles kept for hire permits them to stand in front of a hotel which he does not own, at a place which is not a public cab stand, he violates an ordinance providing that "vehicles for hire, seeking employment, shall not stop or loiter upon any street, except at the regular public stands," although he maintains an office in the hotel and though he hires the vehicles to the hotel's guests as well as to the public generally. *Gassenheimer v. District of Columbia*, 26 App. Cas. (D. C.) 557, 6 Ann. Cas. 920.

⁶ *Gassenheimer v. District of Columbia*, 25 App. Cas. (D. C.) 179, 181.

§ 255. Emission of Smoke or Vapor.

Some statutes impose a penalty for operating motor vehicles that emit smoke or visible vapor unless such omission is attributable to some temporary or accidental cause.⁷ Where the statute relates to the structural condition of the vehicle no liability is incurred thereunder in case the smoke is caused wholly by the driver's negligence.⁸

§ 256. Negligent, Reckless, or Dangerous Driving.

The statutes regulating the use of motor vehicles frequently constitute it an offense to drive such a vehicle in a dangerous, reckless, or negligent manner.⁹ This provision is not meant for the protection of persons on the car itself, but is intended for the benefit of the public who are outside the car on the highway. The driver of a motor car refused to pay a toll for the car, whereupon the toll collector placed himself in front of the car to prevent its proceeding. Hav-

⁷ *Hindle v. Noblett*, 99 L. T. N. S. (Eng.) 26, 72 J. P. 373, 6 Local Gov. Rep. 825.

⁸ *Rex v. Wilbraham*, 96 L. T. N. S. (Eng.) 712, 5 Local Gov. Rep. 764, 71 J. P. 336, 21 Cox C. C. 441; *Star Omnibus Co. v. Tagg*, 97 L. T. N. S. (Eng.) 481, 71 J. P. 352, 5 Local Gov. Rep. 808, 21 Cox C. C. 519, 23 Times L. Rep. 488. And see *supra*, § 69.

⁹ See the statutes.

The words "unlawfully" and "recklessly" used in a criminal complaint to describe the manner in which the defendant drove the motor vehicle into and against the team driven by the complainant on the highway so as to endanger his life and limb, negative any inference that the collision was an innocent accident. *State v. Welford*, 29 R. I. 450, 72 Atl. 396, holding the evidence herein to make a case for the jury.

Evidence as to Sounding of Signal.—In a criminal prosecution for unlawful operation of a motor vehicle, resulting in a collision, testimony as to whether a horn was blown or any warning given by the vehicle is properly admitted for the purpose of ascertaining a component part of the history of the collision. *State v. Welford*, 29 R. I. 450, 72 Atl. 396.

ing been warned to stand clear, the toll collector, after the car was in motion, hung on to the side of the car, was carried along, and after having asked the driver to stop fell off and was injured. The speed of the car was reasonable, and no danger was caused to any one but the collector. The court held that the driver was not guilty of reckless driving under the Motor Car Act, and that a conviction was wrong, saying: "A personal grievance as between the toll-keeper and the appellant in respect of the latter's conduct is not, however, sufficient to constitute evidence of driving which was reckless in itself or reckless in view of all the circumstances of the case as referred to in . . . the Motor Car Act. We ought not to strain the statute and turn into a criminal offense a personal grievance of the complainant independent of what would be regarded as reckless or negligent driving within the statute."¹

While driving in such a manner as to cause bodily harm is denounced by some of the statutes,² under other statutes a driver may be guilty of the offense of driving in a dangerous manner although there were no persons on the highway at the time.³ A person was convicted under the Motor Car Act for having driven a motor bicycle recklessly and at a speed dangerous to the public on the highway in the middle of the day. No evidence was given as to the actual state of traffic at the time. The conviction stated that the defendant was convicted for that he "did drive a motor bicycle on the public highway at a speed dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the highway,

¹ *Troughton v. Manning*, 92 L. T. N. S. (Eng.) 855, 53 W. R. 493, 69 J. P. 207, 3 Local Gov. Rep. 548, 21 Times L. Rep. 408.

² *Rex v. Seager*, 14 Ont. W. Rep. 418.

³ *Mayhew v. Sutton*, 86 L. T. N. S. (Eng.) 18, 71 L. J. K. B. 46, 50 W. R. 216, 20 Cox C. C. 146.

and to the amount of traffic which actually was at the time, or which might reasonably be expected to be, on the said highway." It was held that the conviction was good in form, and that it was not necessary that it should appear on its face whether the circumstances taken into consideration by the trial judge were the amount of the traffic which was actually at the time on the highway, or the amount which might reasonably be expected to be there.⁴ Speed is an element which may be taken into consideration when the charge is driving in a manner dangerous to the public.⁵ Therefore evidence of speed is admissible;⁶ and this is true although the statute constitutes driving in excess of a certain rate a separate offense.⁷

§ 257. Speeding Generally.

Statutes and ordinances constituting it an offense to drive at excessive speed have been adopted in nearly all juris-

⁴ *Rex v. Dublin Justices*, [1904] 2 Ir. R. 698.

⁵ *Hargreaves v. Baldwin*, 93 L. T. N. S. (Eng.) 311.

Driving through Village at Speed of Twenty-three Miles.—The driver of a motor car was convicted under the Motor Car Act for having driven a motor car at a speed which was dangerous to the public, having regard to all the circumstances of the case. The evidence showed that he drove the car through a village at the rate of twenty-three miles an hour. The court held that on this evidence he was properly convicted of the offense charged. *Ex p. Stone*, 73 J. P. (Eng.) 444, 25 Times L. Rep. 787.

⁶ *Hargreaves v. Baldwin*, 93 L. T. N. S. (Eng.) 311. Testimony tending to prove the speed at which the defendant's motor vehicle, just prior to a collision, approached the wagon collided with, is properly admitted as incidental to the collision. *State v. Welford*, 29 R. I. 450, 81 Atl. 396.

Speed after Accident—Fleeing.—And testimony as to the speed of the defendant's car immediately after an accident is properly admitted, as tending to show guilty knowledge by the fact of his running away after committing the offense. *State v. Welford*, 29 R. I. 450, 72 Atl. 396.

⁷ *Hargreaves v. Baldwin*, 93 L. T. N. S. (Eng.) 311, 69 J. P. 397,

dictions.³ When a speed limit is fixed by general statute and a lower rate by local ordinance, any person driving a motor vehicle at a speed in excess of such lower rate, but not in excess of the speed limitation prescribed by the gen-

3 Local Gov. Rep. 973, explaining and distinguishing *Rex v. Wells*, 91 L. T. N. S. 98.

³ Consult local statutes and ordinances. The words "any offense in connection with the driving of a motor car," appearing in the statute, include the offense of exceeding a speed limit. *Rex v. Plowden*, [1909] 2 K. B. (Eng.) 269, 78 L. J. K. B. 733, 100 L. T. N. S. 856, 73 J. P. 266, 7 Local Gov. Rep. 584, 25 Times L. Rep. 430.

"*Riding*" in an automobile undoubtedly falls within the purview of a statute regulating the speed at which persons shall ride through the streets. *Rockingham County v. Chase*, 75 N. H. 127, 71 Atl. 634.

"*Common Traveling Pace*."—In *State v. Smith*, 29 R. I. 245, 69 Atl. 1061, the defendant was prosecuted for fast driving in violation of the statute. The statute was in the following words: "Every person who shall ride or drive faster than a common traveling pace in any of the streets of Newport or Providence or in the compact part of any town or village in the state, or in any road leading from Pawtuxet to the compact part of Providence, shall, unless justifiable cause be made to appear for such riding or driving, be fined not less than five dollars nor more than twenty dollars, or imprisoned not exceeding ten days for each offense." It was urged upon the part of the counsel for the defendant, first that the statute was vague, and failed to apprise the defendant with certainty of the crime denounced in violation of the provisions of the state constitution; and second, that on account of the uncertainty of the language the defendant was liable by reason of the enactment to be deprived of his liberty and property without due process of law, in violation of the provisions of both the state and federal constitutions. The court in disposing of these contentions said: "We think that the words 'common traveling pace' had a clear and well-understood meaning when the original statute was enacted, and that they have continued to have and now have such meaning. The statute defines the offense with sufficient clearness. A complaint, brought under it, that one drove or rode at a speed greater than a common traveling pace, charges the offense with sufficient clearness to protect the accused in his right to be informed of the nature and cause of the accusation against him; and he is not, on account of the uncertainty of the language of the statute, liable to be deprived of his liberty and property without due process of law."

eral law, is liable to prosecution and punishment under the ordinance only; but any person who violates the speed limitations prescribed in the general law itself, even though such violation occurs within the limits of the municipality, remains liable to prosecution and punishment under the provisions of the general law.⁹

Violations of speed regulations are not crimes *mala in se*; they involve no moral turpitude.¹

§ 258. Nature and Condition of Highway.

In a prosecution for driving a motor vehicle at a speed in excess of the statutory rate it must be shown that the way upon which the driving occurred was a public highway.² And where the statute prescribing the speed limit contains a proviso in its enacting clause, to the effect that such limit shall not apply to race courses or speedways, an indictment for exceeding the limit must negative the matter set out in the proviso, that is, it must allege that the defendant was not operating his automobile upon a race course or a speedway.³

A driver may be guilty of violating a statute prohibiting driving at a speed that is greater than is reasonable and proper, "having regard to the traffic on the highway,"

⁹ *People v. Prison Keeper*, 190 N. Y. 315, 83 N. E. 44, *reversing* 121 App. Div. 645, 106 N. Y. Supp. 314.

¹ See *v. Wormser*, 129 App. Div. 596, 113 N. Y. Supp. 1093; *People v. Hayes*, 66 Misc. 606, 124 N. Y. Supp. 417. A second offense aggravates the penalty under most statutes. *Matter of Burns*, 68 Misc. 299, 125 N. Y. Supp. 86.

Evidence of previous convictions of exceeding the speed limit accordingly is incompetent to impeach the character of the defendant in a civil action. See *v. Wormser*, 129 App. Div. 596, 113 N. Y. Supp. 1093.

² *Com. v. Pfeiffer*, 35 Pa. Co. Ct. 476.

³ *Byrd v. State*, (Tex.) 129 S. W. 620.

although no traffic was interrupted, interfered with, or affected.⁴ And evidence is admissible to show the general nature of the traffic on the way in question—that is to say, evidence as to the traffic usually on the road, but not on it at the actual moment when the appellant was driving his car upon it.⁵ The appellant drove his motor tricycle at a speed from eighteen to twenty miles an hour along a highway, but there was no direct evidence that any traffic was interrupted, interfered with, incommoded, or affected. The trial court found that the speed was excessive, having regard to the traffic on the highway. On appeal it was held that the trial court was right in convicting, as the words “having regard to the traffic on the highway” meant having regard to the traffic on the road, and not to the traffic in the immediate vicinity of the motor.⁶

Some statutes require the erection of signs as a condition to a requirement of reduced speed within the limits of municipal corporations.⁷ If such signs are plainly readable and contain what the statute prescribes they are actual notice to motorists, whether seen or not, but they should be placed so as to give drivers an opportunity to slow down before entering the area of reduced speed.⁸ Where the stat-

⁴ *Smith v. Boon*, 84 L. T. N. S. (Eng.) 593, 49 W. R. 480, 65 J. P. 486, 19 Cox C. C. 698.

⁵ *Elwes v. Hopkins*, [1906] 2 K. B. (Eng.) 1, 75 L. J. K. B. 450, 94 L. T. N. S. 547, 70 J. P. 262, 4 Local Gov. Rep. 615, 21 Cox C. C. 133.

⁶ *Smith v. Boon*, 84 L. T. N. S. (Eng.) 593, 49 W. R. 480, 65 J. P. 486, 19 Cox C. C. 698.

⁷ See the statutes.

An information failing to allege the erection of the statutory signs is insufficient where it charges the running of an automobile at a speed which is lawful in the absence of signs. *People v. Hayes*, 66 Misc. 606, 124 N. Y. Supp. 417.

⁸ *People v. Hayes*, 66 Misc. 606, 124 N. Y. Supp. 417; *Yeaman v. Jameson*, [1910] Sc. Ct. Sess. 8.

ute requires signs to contain the words, "slow down to ten miles," and an arrow pointing in the direction where speed is to be reduced, an omission of the arrow nullifies the effect of the sign, it seems.⁹

In a prosecution for violating a speed regulation, proof that the defendant, who was the owner of the car or had the right to control it, was seated in the tonneau while the car was being operated by another at an excessive speed warrants an inference that the defendant knowingly allowed the car to be illegally run, and makes out a *prima facie* case.¹

§ 259. Persons Liable for Speeding.

In a British case the defendant was convicted of having driven a motor car at a speed exceeding the legal limit of twenty miles an hour. The evidence was to the effect that two constables were stationed at a certain point and two other constables at a point four miles therefrom, at which latter place the car was stopped. When the car was stopped the defendant was driving, the chauffeur sitting beside him. The defendant held a license for driving. The car traversed the distance between the two points at the rate of twenty-eight miles an hour. The defendant did not give evidence. It was held that there was evidence that the defendant had driven the car over the whole distance as alleged, upon which he could be convicted.²

⁹ *People v. Hayes*, 66 Misc. 606, 124 N. Y. Supp. 417.

¹ *Com. v. Sherman*, 191 Mass. 439, 78 N. E. 98.

² *Beresford v. St. Albans*, 22 Times L. Rep. (Eng.) 1.

Evidence of Contents of License in Absence of Notice to Produce.
—The appellant, the driver of a motor car, was stopped by a police constable for exceeding the speed limit. On the demand of the police constable, appellant produced his license, from which his name was ascertained. At the hearing of the information against the appellant (who was present in court) for having exceeded the speed limit, it

One who aids and abets another in violating the law by driving a car at an excessive speed is guilty of an offense under the statute. And he may be convicted as an aider and abettor under an information charging him with the commission of the offense as principal.³ This decision was rendered by Lord Alverstone, and concurred in by Mr. Justice Darling, who said: "I think that there was ample evidence on which the appellant could be convicted of aiding and abetting Miss Godwin in driving the car at a speed dangerous to the public. The appellant was the owner of the car and in control of it, and he was therefore the person to say who should drive it. The case finds that he *allowed* (I emphasize that) Miss Godwin to do so; that he knew that the speed was dangerous, and that he could and ought to have prevented it."

The clause of the statute purporting to exempt manufacturers and vendors of automobiles from its provisions does not have the effect of excepting such persons as a class from the penalties prescribed for exceeding the speed limits while using motor vehicles.⁴

§ 260. Proof of Speeding.

By virtue of express provision of statute in some jurisdictions a driver may not be convicted of exceeding the

was objected on his behalf that, as no notice to produce his license at the hearing had been given, evidence of its contents could not be heard. The magistrate overruled the objection, admitted the evidence of the police constable as to the contents of the license, and convicted the appellant. The appellate court held that the evidence was rightly admitted. *Marshall v. Ford*, 99 L. T. N. S. (Eng.) 796, 72 J. P. 480, 6 Local Gov. Rep. 1126.

³ *Du Cros v. Lambourne*, [1907] 1 K. B. (Eng.) 40, 76 L. J. K. B. 50, 95 L. T. N. S. 782, 70 J. P. 525, 5 Local Gov. Rep. 120, 21 Cox C. C. 311.

⁴ *Com. v. Templeton*, 16 Pa. Dist. Ct. 793, 33 Pa. Co. Ct. 415; *Com. v. Pfeiffer*, 35 Pa. Co. Ct. 478. Consequently in a prosecution

speed limit merely on the opinion of one witness as to the rate of speed at which he was driving his car.⁵ The statement by a witness as to the speed at which a car was proceeding is not mere opinion when based upon a knowledge of the time consumed by the car in going a definite distance. In a prosecution for driving a motor car on a public highway at a speed exceeding twenty miles an hour a police sergeant proved that he placed a police constable at a certain point on the road and stationed himself on the same road at a distance of a quarter of a mile from the constable; that, when the motor car passed the constable, the constable signaled to him, and he immediately started the second-hand of his stop watch and stopped the same when the car passed him; and that the time taken by the car between the two points as shown by his stop watch was $31\frac{1}{2}$ seconds, or at the rate of twenty-eight miles an hour. The stop watch was produced in court and objected to. The only evidence as to the rate of speed was that of the police sergeant, who gave evidence of the time as shown by his stop watch. The court held that the evidence of the police sergeant was not evidence of his "opinion" merely, but was evidence of the fact recorded by his stop watch as to the time taken in traveling over the distance, and that therefore the defendant was not convicted "merely on the opinion of one witness as to the rate of speed" within the meaning of the act.⁶

for exceeding the speed limit it need not be shown that the defendant was not a manufacturer or vendor of motor vehicles. *Com. v. Pfeiffer, supra.*

⁵ Consult the statutes.

⁶ *Plancq v. Marks*, 94 L. T. N. S. (Eng.) 577, 4 Local Gov. Rep. 503, 70 J. P. 216, 21 Cox C. C. 157, 22 Times L. Rep. 432. *Examine Wright v. Mitchell*, [1910] Sc. Ct. Sess. 94.

A device termed a "photo-speed recorder" has been held to be admissible upon the question of the rate at which a vehicle was moving at a certain time. This instrument consists of two similar photographic cameras, set side by side in the same box. It is arranged so that each camera takes a picture with an exposure of approximately one-hundredth of a second, and is provided with a mechanism which automatically exposes one camera approximately one second after the other one. The apparatus is also provided with a chronometer of a stop watch variety, so arranged that the shadow of a dial divided into thirtieths of a second is shown, together with the shadow of the hand in its position on the dial, upon the plate in each separate camera, and this is simultaneous with the exposure of the plate in each camera. The speed of the vehicle is calculated with reference to the rule that the distance of any external object from the lens of the camera is as many times greater than the distance of the image on the photograph plate from the lens as the size of the object is greater than the size of the image; or, as otherwise expressed, the distance of the object equals the distance from the image to the lens, times length of object divided by length of image. Measurements are made of the wheel tread of the vehicle, of the image on the photographic plates, and of the corresponding length on the automobile. The figures thus obtained, together with the focal length as previously verified, are employed in their proper places in the aforesaid formula, and the distance from the camera to the automobile at the instant of each exposure is thus calculated. Subtracting one distance from the other gives the distance traveled by the automobile between the times of the two exposures. The reading of the watch hand shadow cast with the dial shadow upon the plate gives the time between the two exposures. Mak-

ing the usual reductions of elapsed time from seconds to hours, and of the distance covered from feet and inches to miles, the speed in miles per hour is calculated.⁷

§ 261. Stopping on Signal.

The motor vehicle statutes generally provide that the driver of a car who fails to stop on receiving a signal from the driver of a horse-drawn vehicle shall be deemed to be guilty of an offense.⁸ An allegation in a criminal complaint that the defendant operating the automobile did not, when a signal of distress was given by the complainant, "stop such automobile," charges sufficiently that he violated the requirement of the statute to stop the motor power and the machine.⁹ In a prosecution under this provision of the statute evidence as to the speed of the automobile at the time of approaching and meeting the other vehicle is relevant.¹

§ 262. Stopping in Case of Accident.

Provisions have been incorporated in the laws passed in some jurisdictions requiring the driver of a motor vehicle in case of accident to stop his car and return to the scene thereof.² The important duty imposed by this pro-

⁷ *Com. v. Buxton*, 205 Mass. 49, 91 N. E. 129.

⁸ See the statutes.

⁹ *McCummins v. State*, 132 Wis. 236, 112 N. W. 25.

¹ *McCummins v. State*, 132 Wis. 236, 112 N. W. 25.

² *Allegations of Complaint*.—Such an act provided that "every driver of a motor vehicle, after knowingly causing an accident by collision or otherwise, or knowingly injuring any person, horse, or vehicle, shall forthwith bring his motor vehicle to a full stop, return to the scene of the accident, and give to any proper person, demanding the same, the number of his driver's license, the registration number of the motor vehicle, and the names and residences of each and every male occupant of said motor vehicle." A criminal complaint under this provision charged that defendant "did not forthwith bring said

vision is to return to the scene of the accident, not out of motives of humanity for the purpose of rendering first aid to the injured, but to give information if required. If a driver of a motor vehicle does not so return the purpose of the statute has been frustrated.³

§ 263. Disclosing Identity of Driver.

By some statutes, if the driver of a motor car commits an offense denounced by the act, a refusal to give his name and address, or the giving a false name and address, is constituted an offense, and the duty is imposed upon the owner of the car, if required, to give any information which it is within his power to give, and which may lead to the identification and apprehension of the driver. If the owner fails to give such information he also is declared to be guilty of an offense. It has been held that it is not a condition precedent to this obligation of the owner that the driver should previously have been asked for and have refused to give his name and address, the court reasoning that if the owner is bound only to give the required information after a refusal by the driver this would defeat the whole object of the provision, "which is to meet the difficulty, and even impossibility, which frequently arises, of getting the name and address from the driver himself."⁴

motor vehicle to a full stop or return to said scene of said accident." The court held that negative averments should be charged disjunctively, and hence that the word "or" was properly used in the complaint. *State v. Smith*, 29 R. I. 513, 72 Atl. 710.

³ *State v. Smith*, 29 R. I. 513, 72 Atl. 710. Hence a complaint under the statute referred to in the preceding note is not insufficient in charging only that the defendant did not bring the motor vehicle to a full stop or return to the scene of the accident; since, by failing to return, the defendant prevented compliance with the remaining requirements of the statute.

⁴ *Rex v. Hankey*, [1905] 2 K. B. (Eng.) 687, 74 L. J. K. B. 922, 93 L. T. N. S. 107.

§ 264. Lights, Brakes, etc.

It is generally constituted an offense to fail to comply with the requirements as to lights,⁵ brakes, etc. The driver of a motor vehicle must see to it that the lights on his vehicle are burning while he is operating the car during the hours when the display of lights is required by the statute; if the lights are not burning he is guilty of an offense under the act. Knowledge upon the part of the driver that the lights are not burning does not affect his responsibility, it seems. Hence he is guilty of a violation of the act, although the lamps were lighted and have ceased to burn without his knowledge.⁶

The statutory requirement of two independent brakes is not complied with where, in place of one brake, the engine is used so as to lock the wheels.⁷

§ 265. Traction Engines.

Operating a traction engine upon the highway without sending a person ahead to warn travelers is made an indictable offense by statute in some jurisdictions.⁸ Likewise the operation of a traction engine over a bridge or culvert without the use of planks has been constituted an indictable offense.⁹

⁵ *Provincial Motor Cab Co. v. Dunning*, [1909] 2 K. B. (Eng.) 599, 78 L. J. K. B. 822, 101 L. T. N. S. 231, 73 J. P. 387, 7 Local Gov. Rep. 765, 25 Times L. Rep. 646; *State v. Myette*, 30 R. I. 556, 76 Atl. 664.

⁶ *Ex p. Symes*, [1910] W. N. (Eng.) 219.

⁷ *Wilmott v. Southwell*, 99 L. T. N. S. (Eng.) 839, 7 Local Gov. Rep. 8, 72 J. P. 491, 25 Times L. Rep. 22.

⁸ *State v. Kowelski*, 96 Ia. 346, 65 N. W. 306.

⁹ An indictment charging the defendant with having driven over "certain bridges and culverts" is bad for duplicity, because when one bridge is driven over the offense is complete. *State v. Orr*, 89 Ia. 613, 57 N. W. 412.

*Other Offenses Relating to Motor Vehicles.***§ 266. Warning Speeders of Presence of Officers.**

A person who notifies the drivers of motor cars that police officers are timing cars with a view to the prosecution of those driving at an unlawful speed, whereby the cars are slackened and the officers are prevented from obtaining evidence of violations of the law, is guilty of obstructing the police in the execution of their duty.¹ But where there is no evidence that the motor cars were being operated at a prohibited speed a person giving such warning is not guilty of the offense of obstructing a police officer in the execution of his duty.²

§ 267. Refusal of Passenger to Pay Fare.

An automobile is not included within the term "carriage," as that term is used in a statute constituting it an offense for any person to refuse to pay for the use of a "carriage" with intent to cheat or defraud. In support of

¹ Constables were on duty observing and timing the speed of motor cars driven along a certain road, with a view to the prosecution of the drivers of such cars as should be traveling at an illegal speed. For that purpose they had measured a certain distance along the road. The defendant warned the drivers of cars which were approaching the measured distance, of the presence of the constables and the purpose for which they were there. There was evidence that at the time the warning was given the cars were being driven at an illegal speed, and the drivers upon receipt of the warning slackened their speed and proceeded over the measured distance at a lawful speed, whereby the constables, as the defendant intended, were prevented from obtaining such evidence as would be accepted as sufficient in a police court that the drivers of the cars were committing an offense. The court held that the defendant had wilfully obstructed the constables in the execution of their duty. *Betts v. Stevens*, [1910] 1 K. B. (Eng.) 1, 79 L. J. K. B. 17.

² *Bastable v. Little*, [1907] 1 K. B. (Eng.) 59, 76 L. J. K. B. 77, 96 L. T. N. S. 115, 71 J. P. 52.

this ruling the court said: "It is certain that when this statute was originally enacted, the legislature, in using the word 'carriage,' had no thought of a vehicle made up in large part of complicated machinery, and propelled by a powerful engine whose operation is similar to that of locomotive engines on railroads. While such a vehicle may be called a carriage in the broad sense that it is used to carry persons and property, it is not commonly referred to as a carriage, but is distinguished from carriages by another name to designate a vehicle of an entirely different character."³

§ 268. Nonregistration of Taximeter.

If the driver of a public motor vehicle fitted with a taximeter wilfully causes a false entry in the taximeter sheet he is guilty of falsifying his account with his employer, it has been held.⁴

³ *Com. v. Goldman*, 205 Mass. 400, 91 N. E. 392.

⁴ A company was the owner of certain motor cabs and had in its service a number of cabdrivers. Each cab was fitted with a taximeter, that is, a mechanical instrument which, when in action, registers upon a dial the amount due from persons hiring the cab. The taximeter was put into and out of action by the driver depressing and raising a lever respectively. From the figures appearing on the dial at the end of the day an account was prepared stating the proportions due to the company and to the driver for the use of the cab. For several successive days a driver in the company's service took certain passengers on a definite round, receiving from them on each day the same fare. While taking the passengers on this round, the driver wilfully and with intent to defraud drove his cab with the lever of the taximeter raised, so that the instrument was put out of action and registered nothing. It was held that the driver was properly convicted of falsifying an account within the meaning of a statute enacting that if any servant shall wilfully and with intent to defraud falsify any account which belongs to his employer, or has been received by him on behalf of his employer, the person so offending shall be guilty of a misdemeanor. *Rex v. Solomons*, [1909] 2 K. B. (Eng.) 980, 79 L. J. K. B. 8, 101 L. T. N. S. 496, 73 J. P. 467, 25 Times L. Rep. 747.

CHAPTER XVII.

CONTRACTS RELATING TO MOTOR VEHICLES.

§ 269. Generally.

Sales.

270. Warranty.

271. Stipulation that Vehicle Shall Be Satisfactory.

Bailments Generally.

272. Damages to Vehicle.

273. Agreement by Bailee to Deliver Vehicle to Bearer of Receipt.

Repairs.

274. Manufacturer's Agreement—Tender of Vehicle.

275. Repairs Ordered by Chauffeur.

276. Damages for Failure to Repair.

Hiring.

277. Liability for Injuries Caused by Negligence of Driver.

278. Vehicle Regularly Hired.

279. Agreement to Furnish Competent Chauffeur.

§ 269. Generally.

The rules of law relating to contracts generally apply, of course, to contracts of which motor vehicles constitute the subject-matter. And in an action involving a contract relating to a motor vehicle the rules of pleading, evidence, damages, etc., are the same as in other cases. Thus in an action to recover damages alleged by the plaintiff to have been sustained by the negligence of the defendant as a common carrier in transporting his motor vehicle, the plaintiff and the party of whom he purchased the vehicle clearly are

competent to testify as to its value.¹ And in such a case the measure of damages is the difference in the value of the vehicle before it was injured and after it was injured.²

Where a policy of insurance upon a motor vehicle is so drawn as to be ambiguous or to require interpretation, according to the settled rule, that interpretation will be adopted which is most favorable to the insured.³ But the rule is equally well settled that contracts of insurance, like other contracts, are to be construed according to the sense and meaning of the terms which the parties have used, and if they are clear and unambiguous the terms are to be taken and understood in their plain, ordinary, and proper sense.⁴ The provision in a policy that the contract shall not cover "loss or damage caused by fire originating within the vehicle" has been held by fair and natural import and meaning to exclude loss by fire the danger of which is inherent in the use or operation of the vehicle itself without the intervention of any extrinsic cause or agency.⁵ Of course, in accordance with the general rule of law, any material misrepresentation respecting the vehicle insured invalidates

¹ Paterson v. Chicago, etc., R. Co., 95 Minn. 57, 58, 103 N. W. 621.

² Paterson v. Chicago, etc., R. Co., 95 Minn. 57, 59, 103 N. W. 621.

Proof that the vehicle was in good condition when delivered to the initial carrier establishes *prima facie* that it was received by a connecting carrier in like condition. Paterson v. R. Co., *supra*.

³ Preston v. Aetna Ins. Co., 193 N. Y. 142, 85 N. E. 1006, 19 L.R.A. (N.S.) 133, reversing 118 App. Div. 784, 103 N. Y. S. 638, and overruling Preston v. Union Assur. Soc., 118 App. Div. 788, 103 N. Y. S. 640.

⁴ Preston v. Aetna Ins. Co., *supra*.

⁵ When, therefore, the vehicle was damaged by fire originating in an explosion of gasoline, which, owing to the partial overturning of the vehicle in a ditch containing water, ran out of its tank upon the water, and the vapor, coming into contact with lighted lamps attached to the automobile, was ignited and exploded, causing the fire and the resulting damage, it was held that the fire originated within the vehicle, and that the policy did not cover the loss. Preston v. Aetna Ins. Co., *supra*.

the contract of insurance and prevents a recovery in case of loss. In a recent decision it was declared that a representation that a car was of the model of a certain year whereas it was in fact of the model of a year previous, and for that reason less valuable, amounted to such a material misrepresentation.⁶

Sales.

§ 270. Warranty.

Where a motor vehicle is purchased after an inspection there is, as a rule, no implied warranty that it will answer the purpose for which it is intended.⁷ And in the purchase of a vehicle which has been used considerably, the price being below the usual price of a new car of the same kind, there is no implied warranty as to the durability of its parts. The doctrine of *caveat emptor* is applicable.⁸ If there was at the time of sale an express contract of warranty, evidence of a prior or contemporaneous verbal warranty is inadmissible.⁹

§ 271. Stipulation that Vehicle Shall Be Satisfactory.

A stipulation in a contract of sale of an automobile that the car shall be satisfactory to the purchaser means what it says, and not that the automobile would be satisfactory to a reasonable person for the purpose for which it is sold. Accordingly, if an automobile is sold upon the condition

⁶ Harris v. St. Paul F. & M. Ins. Co., 126 N. Y. Supp. 118.

⁷ Ford Motor Co. v. Osburn, 140 Ill. App. 633.

False Representations.—If a sale is induced by material misrepresentations it may be rescinded. Joslyn v. Cadillac Automobile Co., 177 Fed. 863, 101 C. C. A. 77; Pitcher v. Webber, 103 Me. 101, 68 Atl. 593; Washburn v. Rainier Co., 130 App. Div. 42, 114 N. Y. S. 424. See also Berg v. Rapid Motor Vehicle Co. (N. J.), 75 Atl. 933.

⁸ Morley v. Consolidated Mfg. Co., 196 Mass. 257, 81 N. E. 993. See, also, Warren v. Walter Automobile Co., 50 Misc. 605, 99 N. Y. S. 396 (tires).

⁹ Ford Motor Co. v. Osburn, 140 Ill. App. 633.

that it shall be satisfactory to the purchaser, he may return it, if he acts in good faith in doing so.¹

Bailments Generally.

§ 272. Damage to Vehicle.

The liability of a bailee of a motor vehicle for injuries to the vehicle must be determined in accordance with the rules of law respecting the duties of bailees generally. If the bailee has been guilty of any negligence the bailor is entitled to recover damages in full compensation for his loss.² If the purchaser of a motor vehicle ships it to the manufacturer for repairs, the repairs being for the mutual benefit of the parties, the manufacturer, upon receiving the vehicle, becomes bailee of it for hire, and is responsible for only ordinary care.³ If the vehicle after being repaired is held at the owner's request, the manufacturer is not liable for the destruction of the car by fire in the absence of proof that the fire occurred by reason of his negligence.⁴

One who receives an automobile for the purpose of selling it is not liable for the negligent or wilful tort of his servant, whereby the automobile is injured, unless the act of the servant is done while the latter is acting within the scope of his employment.⁵ It is within the scope of the

¹ Walker v. Grout Bros. Automobile Co., 124 Mo. App. 628, 102 S. W. 25. In arriving at this decision the court said: "An automobile is not a work of art, nor a machine about which there can be any very peculiar fancy or taste, but it is not a common, gross thing, like a road-wagon or an ox-cart." See also Beecroft v. Van Schaick, 104 N. Y. S. 458.

² White Sewing Mach. Co. v. Phenix Nerve Beverage Co., 188 Mass. 407, 74 N. E. 600.

³ Ford Motor Co. v. Osburn, 140 Ill. App. 633, 639. See, also, P. H. Gill & Sons Forge, etc., Works v. Detroit-Cadillac Motor Car Co., 139 App. Div. 205, 123 N. Y. S. 621.

⁴ Ford Motor Co. v. Osburn, 140 Ill. App. 633.

⁵ In Evans v. A. L. Dyke Automobile Supply Co., 121 Mo. App. 266,

employment of the manager of an automobile repair business to follow a customer upon the road in order to be at hand in case of accident to the latter's car, and consequently the owner of the business is liable for injuries to an automobile which the manager has borrowed from a customer, caused by the negligence of such manager while using the car for the purpose mentioned.⁶

§ 273. Agreement by Bailee to Deliver Vehicle to Bearer of Receipt.

The plaintiff having a lien upon an automobile chassis for money loaned allowed his debtor to deliver it to the defendant for the purpose of having a body placed on the machine on the condition that the debtor should obtain a receipt from the defendant and deliver it to the plaintiff. The defendant gave the debtor the receipt, stating that the chassis was to be delivered only on return of the receipt properly indorsed, and the debtor in his turn indorsed the receipt "Deliver to the order of" the plaintiff. Subsequently the defendant returned the machine to the debtor equipped with a body without requiring a surrender of the receipt. The plaintiff, having failed to collect his claim from the debtor, sued the defendant for converting the machine, but it was not shown that the defendant had knowledge or notice of the transactions between the plaintiff and his debtor, or knowledge that the former had any claim upon the chassis. The court held that an action for conversion did not lie, as under the circumstances the

101 S. W. 1132, a company which had received an automobile from the owner thereof for the purpose of exhibiting and selling it was held not to be liable for the destruction of the machine while it was being used by an agent or employee of the company for his own pleasure and without the company's consent.

⁶ John M. Hughes Sons Co. v. Bergen, etc., Automobile Co., 75 N. J. L. 355, 67 Atl. 1018.

defendant had a right to return the machine to the persons from whom he received it.⁷

*Repairs.*⁸

§ 274. **Manufacturer's Agreement—Tender of Vehicle.**

Where a manufacturer of automobiles agrees to overhaul cars sold by it at its factory, there is no breach of the contract unless the owner of a car tenders it to the manufacturer to be overhauled.⁹

§ 275. **Repairs Ordered by Chauffeur.**

It seems that a chauffeur has no implied authority to order permanent repairs, but that he has implied authority to make a contract for such repairs as are necessary to enable him to proceed upon his journey or to make a contract for the storing of a disabled car.¹ And while a chauffeur who orders repairs without disclosing the fact that the car belongs to his employer renders himself liable for the work performed, yet if the person making the repairs requires of the chauffeur an order from the employer such person is not entitled to enforce his demand for compensation against the chauffeur.²

One who furnishes automobile supplies and does repair work under a contract made by a chauffeur in behalf of the owner of an automobile, and gives such chauffeur a discount or bonus in violation of the statute making such act an offense, is not entitled to recover from the owner for the supplies and work. Nor can the contract in such

⁷ *Manny v. Wilson*, 137 App. Div. 140, 122 N. Y. Supp. 16.

⁸ See also *infra*, § 284.

⁹ *Barry v. American Locomotive Automobile Co.*, 113 N. Y. Supp. 826.

¹ *Gage v. Callanan*, 57 Misc. 479, 109 N. Y. Supp. 844, *reversed* on other grounds, 128 App. Div. 752, 113 N. Y. Supp. 227.

² *Hamann v. Leahy*, 140 App. Div. 153, 124 N. Y. Supp. 1018.

case be ratified. To permit any acts on the part of the owner to have this effect would contravene public policy.³

§ 276. Damages for Failure to Repair.

The measure of damages for breach of a contract to repair a motor vehicle must be determined primarily upon the principle which accords to the injured party full compensation for his loss. Of course, the plaintiff must show with certainty the amount of the loss sustained by him.⁴ It has been held that the measure of damages for failure to repaint an automobile according to agreement is the cost of repainting, where it appears that the owner of the car has used it notwithstanding the breach of the agreement; and that the owner is not entitled to recover the amount required to hire an automobile during the time that it would take to paint the car.⁵

Hiring.

§ 277. Liability for Injuries Caused by Negligence of Driver.⁶

In case of a hiring of a carriage with horses and a driver, to be used for the conveyance of the hirer from place to place, it has been held almost universally that in the care and management of the horse and vehicle, the driver does not become the servant of the hirer, but remains subject to the control of his general employer, and that therefore the hirer is not liable for his negligence in driving. The hiring of a motor vehicle with a licensed chauffeur who is in the general service of the owner falls within this class of

³ General Tire Repair Co. v. Price, 115 N. Y. Supp. 171.

⁴ Burnham v. Central Automobile Exch., (R. L.) 67 Atl. 429.

⁵ Woodward v. George N. Pierce Co., 147 Ill. App. 339.

⁶ See also *supra*, p. 234.

cases, and the owner, not the hirer, is liable for the negligence of the chauffeur.⁷ It has been pointed out that the danger of great loss of property by the owner, as well as of injury to the chauffeur, his servant, is such as to make it of the highest importance that care should be exercised in his interest, and that the control and management of the vehicle should not be given up to the hirer.⁸

§ 278. Vehicle Regularly Hired.

Whether the rule above stated applies in case the hiring instead of being for a particular occasion is of a more durable, regular, or permanent nature, is not clear. A British decision would seem to indicate that the hirer is not liable for negligence of the driver, under such circumstances. In the case referred to, the defendants hired out a traction engine to another person, and furnished a driver to operate it. They paid the driver, supplied the oil for the engine, and kept it in repair. The evidence showed that the person to whom the engine was hired could direct where the engine should go and what loads it should haul, and that the defendants never knew where the engine was sent or what it carried. While so hired, the engine, by the negligence of the driver, injured the plaintiff. The court held that the defendants, who appointed and paid and who could dismiss the driver, had control over him at the time of the injury, and were therefore liable to the plaintiff.⁹

Certainly if one who hires a motor vehicle from another person, together with a chauffeur to operate it, is liable for injuries caused by the negligent operation of the vehicle

⁷ *Shepard v. Jacobs*, 204 Mass. 110, 112, 90 N. E. 392, 26 L.R.A. (N.S.) 442, 134 Am. St. Rep. 648.

⁸ *Shepard v. Jacobs*, 204 Mass. 110, 113, 90 N. E. 392, 26 L.R.A. (N.S.) 442, 134 Am. St. Rep. 648.

⁹ *Devaux v. Tasker*, 23 Times L. Rep. (Eng.) 259.

in any case, it is only when the vehicle is engaged in his business. Nor is such hirer liable for an accident due to a defect in the vehicle.¹ In a case before the Appellate Division of the New York Supreme Court, it appeared that the defendant express company hired from a transportation company certain electric vehicles for the purpose of delivering express packages. The transportation company employed the chauffeurs for these vehicles, whose sole duty was to operate them. The chauffeurs had nothing to do with the putting of the parcels into the vehicles, nor did they deliver the parcels. After the packages were put into the vehicles a servant of the express company customarily went with the chauffeur and made the deliveries. One of the vehicles caused the death of plaintiff's intestate. At the time of the accident the driver of the vehicle had returned to the express company's office, had informed the official in charge that there was some trouble with the vehicle, and had started therefrom, after leaving the servant of the express company. The court held the defendant not to be liable, saying: "At the time of the accident he had delivered all the packages for the defendant and was not then engaged in doing any work for it; he was then either taking the vehicle to the transportation company's office to have it repaired, or else was engaged in his personal business, and in neither case can it be said that he was acting as the servant of the defendant or engaged in its business. . . . When the chauffeur left the defendant's office for the purpose of going back to the transportation company's office to have the vehicle repaired, or to get his lunch, he ceased to be the servant of the express company, because he was not then engaged in doing its business, and

¹ *Bohan v. Metropolitan Express Co.*, 122 App. Div. 590, 107 N. Y. S. 530.

for his negligence in operating the vehicle while thus engaged the express company is not liable.”³

Of course, if the owner of a motor vehicle hires it to another person without furnishing a driver or reserving any control whatever over the operation of the vehicle, he is not liable for injuries due to the negligent management of the vehicle while in the possession of the lessee. And in this case it is immaterial whether the hiring is for a particular occasion or for a considerable period.³

§ 279. Agreement to Furnish Competent Chauffeur.

One who agrees to furnish another with a competent chauffeur is liable to such other in damages for injuries due to the chauffeur's negligence.⁴

³ *Bohan v. Metropolitan Express Co.*, 122 App. Div. 590, 107 N. Y. S. 530.

³ *Smith v. Bailey*, [1891] 2 Q. B. (Eng.) 403 (traction engine).

⁴ *Gresh v. Wanamaker*, 221 Pa. St. 28, 69 Atl. 1123. Where an automobile was sold under a contract by which the seller agreed to furnish a chauffeur to teach the buyer to operate it, and the car was damaged while being driven by the chauffeur, the court held upon conflicting evidence that it was a question for the jury whether the chauffeur was the agent of the seller or the buyer. *Burnham v. Central Automobile Exch.*, (R. I.) 67 Atl. 429.

CHAPTER XVIII.

GARAGES AND GARAGE KEEPERS.

§ 280. Legal Status of Garages Generally.

281. Garage as Nuisance.

282. Garage Keepers.

283. Liability of Garage Keeper for Acts of Employees.

284. Right of Garage Keeper to Lien.

§ 280. Legal Status of Garages Generally.

Garages are structures for housing motor vehicles. They may be public, or such as are maintained for the accommodation of the vehicles of other persons than the owner, or they may be for the sole use of the owner. They occupy, with relation to such vehicles, the same place that stables do with regard to horses,¹ public garages being analogous to livery stables.² But garages are not to be classed with stables. Stables have objectionable features that do not exist in respect of garages. A private garage connected with a dwelling house is incidental to the reasonable use of the property for residential purposes, and the erection of such a garage is not a violation of restrictive covenants limiting the use of private property to residential purposes and prohibiting public or private stables for horses or other animals, or nuisances of any kind, description, or nature.³ Indeed, the view has been entertained that a private garage is no more objectionable than any other addition to a

¹ *Trenton Diocese v. Toman*, 74 N. J. Eq. 702, 70 Atl. 606.

² *Smith v. O'Brien*, 46 Misc. 325, 94 N. Y. Supp. 673.

³ *Beckwith v. Pirung*, 134 App. Div. 608, 119 N. Y. Supp. 444.

dwelling. It has been said: "If one having a fondness for flowers should attach to his residence a small extension for the purpose of a conservatory or greenhouse, or, being a lover of music, should attach a similar extension to be used as a private music room, or, being a patron of art, should in like manner construct a building to be used as an art gallery, we think it could hardly be claimed that this was a violation of the covenant. However much we may differ upon a question of taste, it seems to us that if one has a fondness for automobiles, and desires to build an addition to his dwelling house for the storing of his own automobiles, it cannot be claimed that he is destroying the character of the property as residential property, or devoting any portion of it to a use which is not fairly incidental thereto."⁴ Moreover a contention that a garage comes within the prohibition of building restrictions must be disposed of with a view to the settled rule that words in a deed of conveyance restricting the use of the property by the grantee are to be construed strictly against the grantor and those claiming the benefit of such restrictions, and that they will not be extended beyond the clear meaning of the language so used.⁵

The erection of a garage, evidently for the purpose of enhancing the value, usefulness, and enjoyment of the land, does not become unlawful because it is accompanied by an intent to annoy an adjoining proprietor. Accordingly an injunction will not be granted to restrain the construction of the building. And this is the case under a statute the provisions of which are as follows: "An injunction may be granted to restrain the malicious erection,

⁴ Beckwith v. Pirung, 134 App. Div. 608, 119 N. Y. Supp. 444.

⁵ Jones v. Williams, 56 Wash. 588, 106 Pac. 166, holding that a "garage and storeroom" are not within a prohibition against the erection of "any flat building or tenement house."

by any owner or lessee of land, of any structure intended to spite, injure, or annoy an adjoining proprietor. And where any owner or lessee of land has maliciously erected such a structure with such intent, a mandatory injunction will lie to compel its abatement and removal.”⁶

§ 281. Garage as Nuisance.

From what has been stated above it is plain that a garage is not a nuisance *per se*.⁷ But a garage, by reason of the noise, odor, or danger attending it, may constitute a nuisance, and if this is shown to be the case its maintenance will be enjoined.⁸ Whether in a particular case a garage constitutes a nuisance depends principally upon its location with respect to other structures. So in a proper locality, amidst proper surroundings, it is not unlawful for the gasoline used in motor vehicles to be stored and used to fill the tanks of the vehicles, or for the vehicles with the fluid within them to be stored. But the storing and using of gasoline in large quantities in a frame building, used as a garage, situate in a thickly built-up portion of a large city, where there are numerous frame buildings, and where an explosion would cause serious injury to the adjacent property, and would be a serious menace to the lives of those in that vicinity, constitutes a nuisance which will be enjoined so far as to restrain the introduction of gasoline into the tanks of the automobiles while inside the building and the storing of automobiles with gasoline in their tanks.⁹ Likewise evidence that a proposed garage will accommodate about a hundred and twenty-five vehicles, that it will

⁶ Jones v. Williams, 56 Wash. 588, 106 Pac. 166.

⁷ Trenton Diocese v. Toman, 74 N. J. Eq. 702, 70 Atl. 606; Stein v. Lyon, 91 App. Div. 593, 87 N. Y. Supp. 125.

⁸ O'Hara v. Nelson, 71 N. J. Eq. 161, 629, 63 Atl. 836, 842.

⁹ O'Hara v. Nelson, 71 N. J. Eq. 161, 629, 63 Atl. 836, 842.

contain a gasoline tank having a capacity of ten barrels, and that it will have a shop and forge for effecting repairs, warrants a finding that it will be offensive to the neighborhood for dwelling purposes, in violation of building restrictions directed against shops, foundries, and the like.¹ And if the owner of premises lets a portion thereof to an automobile company, which so disturbs another tenant's enjoyment of the premises as to render them unfit for occupancy for the purpose for which they were leased, such disturbance amounts to an eviction and releases the evicted tenant from the obligation to pay rent accruing thereafter.²

§ 282. Garage Keepers.

A garage keeper is one who maintains a garage for the accommodation of the motor vehicles of other persons. Garage keepers occupy with respect to motor vehicles the same position that livery stable keepers occupy with respect to horses and the vehicles drawn by such animals. But while the garage keeper is like unto the livery stable keeper, yet it has been held that he is not "a person keeping a livery stable, or boarding stable for animals, or pasturing or

¹ *Evans v. Foss*, 194 Mass. 513, 80 N. E. 587, 11 Ann. Cas. 171, 9 L.R.A.(N.S.) 1039.

² In an action by a landlord to recover the rent for a room leased for use as an art studio, where the defendant sets up a claim for damages resulting from a constructive eviction arising from the vibration incidental to the use of another portion of the premises by an automobile company holding under a lease subsequent to the defendant's, and the evidence raises an uncontradicted presumption that the automobile company had a right under its lease to use its premises in the manner complained of, it is proper for the trial court to instruct the jury that the plaintiff is liable for the damages. *Wade v. Herndl*, 127 Wis. 544, 107 N. W. 4, 7 Ann. Cas. 591, 5 L.R.A.(N.S.) 855.

boarding one or more animals, or who in connection therewith keeps or stores any wagon, truck," etc.³

§ 283. Liability of Garage Keeper for Acts of Employees.⁴

If any employee of a garage keeper receives a vehicle into the garage upon its being tendered by the owner in accordance with a contract previously made with the general manager of the garage, this constitutes a good delivery to the garage keeper.⁵ But a garage keeper is not bound by the act of an employee in receiving articles from patrons for safe keeping, unless such act was within the scope of the employee's employment.⁶ And it is the duty of the patron in delivering articles for safe keeping to inform himself of the scope of the employee's agency.⁷

A duty rests upon garage keepers to adopt reasonable measures to prevent the vehicles in their keeping being taken from the garage without authority. A neglect of this duty renders the garage keeper liable to the owner of a car that has been surreptitiously taken out.⁸

³ *Smith v. O'Brien*, 46 Misc. 325, 96 N. Y. Supp. 673, construing the statute conferring a lien upon livery stable keepers.

⁴ See also *supra*, § 272.

⁵ *Evans v. A. L. Dyke Automobile Supply Co.*, 121 Mo. App. 266, 101 S. W. 1132.

⁶ *Chesley v. Woods Motor Vehicle Co.*, 147 Ill. App. 588.

⁷ If a person who keeps his automobile at a garage delivers for safe keeping goods (a case of samples in this instance) to a porter employed by the garage keeper, the latter is not liable for the loss of the articles. *Chesley v. Woods Motor Vehicle Co.*, 147 Ill. App. 588.

⁸ Evidence in an action against an owner of a garage to recover damages for the loss of an automobile taken therefrom without written authority of the owner examined and held to justify a verdict of the jury finding guilty of lack of due care in failing to adopt proper methods to prevent chauffeurs taking out motor cars without

§ 284. Right of Garage Keeper to Lien.

If a garage keeper's possession of an automobile is interrupted from time to time by the owner using the car, he has no lien for repairs to or supplies for the car.⁹ Since the garage is analogous to the livery stable the rule respecting livery stable keepers is applicable; that is, that the livery stable keeper had no lien if the owner exercised the right of use of the horse kept, and so the continuous possession was destroyed.¹ For the same reason the garage keeper is not entitled to a lien as a warehouseman. The right of the owner to take the vehicle out at will destroys the possession and demonstrates that the credit is given to the owner and not the goods.² Nor is the garage keeper entitled to a lien as an artisan.³

But if a garage keeper furnishes material and performs services in and upon a motor vehicle he is entitled to a lien upon the vehicle. If he parts with the possession of the chattel, however, the lien is lost, and an agreement by the person to whom he delivers it that the lien shall continue is of no effect so far as the rights of innocent third persons are concerned. This is the rule of the common law and also under the statute giving garage keepers a lien for charges and authorizing them to detain the vehicles until the sums due shall be paid.⁴

Having lost his lien on a vehicle by parting with its possession the garage keeper has no right to retake possession

due authority. *Wilson v. Wyckoff*, 133 App. Div. 92, 117 N. Y. Supp. 783.

⁹ *The Interruption of Possession Destroys the Lien.*—*Smith v. O'Brien*, 46 Misc. 325, 94 N. Y. Supp. 673.

¹ *Smith v. O'Brien*, 46 Misc. 325, 94 N. Y. Supp. 673, *affirmed* without opinion, 103 App. Div. 596, 92 N. Y. Supp. 1146.

² *Smith v. O'Brien*, 46 Misc. 325, 96 N. Y. Supp. 673.

³ *Smith v. O'Brien*, 46 Misc. 325, 94 N. Y. Supp. 673.

⁴ *Thourot v. Delahaye Import. Co.*, 125 N. Y. Supp. 827.

of it. If a garage keeper takes the motor vehicle of one of his patrons from the public street with the intent thereby to enforce payment of a debt for storage and repairs, and to deprive the owner of the vehicle until the debt is paid, he is guilty of larceny, it seems.⁵

⁵ *Greene v. Fankhauser*, 137 App. Div. 124, 121 N. Y. Supp. 1009.

CHAPTER XIX.

LAW OF AVIATION.

- § 285. Status of Aerial Law.**
- 286. Value of Early Rules and Observations.**
- 287. Status of Space Superjacent to Land or Water.**
- 288. National Ownership and Control of Space.**
- 289. Private Ownership of Space.**
- 290. Right of Aviators to Pass over Private Property.**
- 291. Nature, Extent, and Incidents of Right of Passage.**
- 292. Regulation of Use of Aerovehicles.**
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- 297. Liability Arising from Nuisance.**
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- 299. Guille v. Swan.**
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- 301. Jurisdiction of Crimes and Torts Committed on Aerovehicles.**
- 302. Jurisdiction of Federal and State Courts.**
- 303. Aerial Warfare.**

§ 285. Status of Aerial Law.

At the present time the law of the air rests almost entirely in conjecture. The conquest of this territory, which now seems to be assured, presents legal problems so foreign to the rules promulgated by man in his character of possessor of the land and water, that those rules supply few precedents. Yet many of the legal problems that undoubtedly will arise under these new conditions have been formulated and solved, perhaps with accuracy, by the academicians. In many countries jurists have hastened to

anticipate the problems which the rapid strides of the new science of aerial navigation are presenting in every branch of the law. Indeed, for a decade several European publicists of distinction have been giving the subject serious consideration, more especially in its bearing upon international rights and obligations. These lawmakers "have run on before even the boldest experimenters, and when these succeed in entering into practical possession of their 'conquest of the air,' they will find that their rights and obligations in their new realm have been considered and meticulously determined."¹

The greatest activity has been displayed in France and Germany. At an annual conference of the Institute of International Law in 1900 Professor Fauchille submitted an elaborate study of "*Le Régime Juridique des Aérostats*," supplemented by the draft of a legislative code for international adoption. In 1908 the French Cabinet resolved to invite representatives of all governments to meet in a conference at Paris to discuss the legal problems of aerial navigation. That conference was called together in 1910, and a permanent international committee was constituted under the title of the *Comité Juridique International de l'Aviation*. The purposes of the committee, primarily, are to elaborate in each country the doctrines concerning legislation of the air, and to create a code relating to the air.² The *Comité Juridique* has now branches in seventeen other countries, having for their object the working out in each country of a body of rules concerning the law of the air. It is understood that in France and Germany some progress has been made with the task.³

¹ G. D. Valentine, Esq., 22 *Jurid. Rev.* 16 (May, 1910).

² Norman Bentwich, Esq., 45 *L. J.* 402 (June 18, 1910).

³ G. D. Valentine, Esq., 22 *Jurid. Rev.* 85; 14 *Law Notes* 69 (July, 1910).

The difficulties of evolving rules that may serve to solve the novel problems of aerial law are great. These rules must safeguard national as well as private rights; and science and progress demand that no unreasonable hindrance shall be interposed to the development of man's new triumph.

§ 286. Value of Early Rules and Observations.

The books containing our law have been examined with minute care by numerous investigators, with a view to determining some at least of the questions that aerial navigation has introduced. The results of these investigations are a few cases and judicial observations that seemingly bear upon the questions propounded for solution. These utterances, however, were made with a view to conditions quite different from those brought into existence by contrivances for navigating the air. Such precedents, then, must be deemed to be of little or no value as authority, and the rules of aerial law must be evolved from the general principles of our jurisprudence, keeping in mind the practical necessities of national and private life and property rights rather than an adherence to any supposed theories of the law. Mr. Valentine says in this connection: "It is not enough to argue as to the construction of texts from the Pandects or the opinions of jurists who, however correct they may be in their dealings with the matter they had in hand, never had in view the state of things that has now arisen; we would rather attempt to anticipate how the question is likely to be dealt with by statesmen, to what practice the nations may reasonably be expected to conform, what by their general consent they will establish to be law."⁴ Again the same learned investigator expresses himself as follows:

⁴ 22 Jurid. Rev. 16 (May, 1910).

"The inquirer must therefore be on his guard against attaching too great importance to the passing observations of the ablest men, and is driven back to the principles which lie at the root of jurisprudence. It is a property of law as of every other science, and in an eminent degree of every philosophical science, that as it grows broader it grows deeper. Fresh problems call for a more searching examination of fundamental principles."⁵

§ 287. Status of Space Superjacent to Land or Water.

The question first in importance and interest is as to the legal status of the space lying above the land and water. Is this space susceptible of ownership, and if so what is the extent of possible ownership? Does a nation own the space superincumbent upon its territory? This has been perhaps the most mooted question by European writers, as, indeed, it is the question of greatest moment to the nations of Europe. The fear of espionage and invasion by other powers is the fundamental consideration upon the Continent and in England. In the United States and Canada no such considerations arise, and the question of greatest interest is as to the rights of individual proprietors in the space superjacent to their land.

Several theories may be advanced as to the status of the space superjacent to land. It may be urged that the space is incapable of ownership in any degree or to any extent, and hence may be used by all without let or hindrance. Or it may be contended that the space is analogous to the ocean, capable of ownership to a certain distance from the land but not subject to possession beyond such limit. This is the "territorial zone" theory and has some

⁵22 Jurid. Rev. 85; 14 Law Notes 69 (July, 1910).

supporters. Again it may be held that the air space is owned by a nation or individual to the highest heavens.

§ 288. National Ownership and Control of Space.

We may consider first the question of territorial sovereignty. Has a nation a property right in or a right to control the space above its territory? And if it has any such property or right is it absolute and unlimited in extent, or is it limited to a zone lying within certain bounds? Upon this question there appears to be no authority whatever. In the search for a principle on which to found an opinion recourse can only be had to more or less unsatisfactory analogies. The most obvious analogy, and apparently the only one likely to be of much use, is the case of the sea.⁶ It is certainly true that the space superjacent to land very much resembles the waters adjacent thereto. A like use may be made of both; and they are susceptible of ownership in a similar degree and to a similar extent. The sovereignty of a nation over the ocean extends to the distance of a league from the shore. Beyond this boundary the open ocean belongs to all nations equally. None has a superior right therein. Is this principle to be held applicable in determining territorial sovereignty over superjacent space? The writers of the Continental nations of Europe, who were the earliest to consider the subject, answered this question in the affirmative. They asserted that the state has no sovereignty over the air; that it has at most certain limited rights of self-protection; and that these affect only the lower regions of the atmosphere.⁷ The air, they said, is free; it is insusceptible by its nature of

⁶ 44 L. J. 27.

⁷ Grünwald's theory is that space is divided into zones, in the lower of which only there may be property rights.

occupation or possession.⁸ So in 1906 the Institute of International Law adopted as a general principle that "the air is free, and states have only such rights over it in time of peace and in time of war as are necessary for their conservation."⁹ It should be observed that this principle, however, leaves room for an interpretation which may accord to a nation absolute control over its superjacent space.

It is believed, however, that the view denying to a nation full and absolute rights, whether termed property rights or otherwise, in the space above its territory, is erroneous, and not sustainable by sound reasoning. A number of reasons demand a recognition of territorial sovereignty and full control over space, and this is the position taken by many able jurists.¹ An obvious objection to the zone theory is that the dropping of destructive materials is practically independent of height. Nothing short of absolute prohibition against hostile aerial flights overhead would render life and property upon the surface of the earth secure from injury by means of weapons in the nature of explosives or the like which might be dropped from above.² A further objection to the zone theory is the extreme difficulty of determining the height of an aerial object from below. Any one who has observed aeroplanes at a height of a thousand feet or more realizes the force of this objection. The case of the ocean and the three-mile limit is not analogous in this particular.

These practical considerations in favor of unqualified and unlimited national ownership and control of superjacent space should outweigh any refined theories that may

⁸ G. D. Valentine, Esq., 22 Jurid. Rev. 16 (May, 1910).

⁹ Norman Bentwich, Esq., 45 L. J. 402 (June 18, 1910).

¹ Hon. S. E. Baldwin, 4 Am. J. Int. L. 95 (January, 1910); Norman Bentwich, Esq., 45 L. J. 402 (June 18, 1910); 126 L. T. 168.

² G. D. Valentine, Esq., 22 Jurid. Rev. 16 (May, 1910); 44 L. J. 27.

be evolved by rationalists and metaphysicians. Regardless of what may be the result of abstract argument, it seems to be clear that no nation will yield assent to any theory whereby it is deprived of complete jurisdiction over any portion of its superjacent space.³ The vital interests of nations point to this conclusion. Moreover, the power effectively to control the space above a nation's territory is not lacking, and herein the case of the sea ceases to be an analogy. Mr. Valentine says: "The range of modern ordnance is such that powers in possession of the subjacent land will, in fact, be able to exclude vessels at will from the whole zone of the atmosphere suitable for aerial navigation. An occasional raider may evade them; but substantial use of their atmosphere against their wish will be impossible. That intention will go as far as ability, cannot be doubted, and it appears to us that by the conjunction of these different elements there is constituted such effective occupation as to give rise to the full right of sovereignty."⁴ It may be doubted, perhaps, whether the weapons in use at present would prove efficacious in repelling an aerial attack; but the nation attacked may be presumed to have as efficient aerovehicles as the enemy, and operating over its own territory would have a distinct advantage, since coming to earth for supplies will be essential to a continuance of hostilities. So it fairly may be said that a nation has effective control over the space superjacent to its land. This being the case, the zone theory, which is based upon a contrary assumption, must be deemed to be without support.

The ownership and control of the space superjacent to a nation's territory, it has been pointed out, is analogous,

³ G. D. Valentine, Esq., 22 Jurid. Rev. 16 (May, 1910).

⁴ 22 Jurid. Rev. 16 (May, 1910).

not to the ocean, but to waters lying wholly within the body of the country.⁵

If it is to be established that a nation owns and has control of the space above its territory without limitation, nations bounded by the high seas are entitled to the space lying above the water within a league of the shore. This space is exactly analogous to the water subjacent to it. Beyond the three-mile limit and above the high seas the space may be used by all aviators free of any restrictions and regulations save such as may be established by international agreement.

§ 289. Private Ownership of Space.

Complete and exclusive dominion over the space superjacent to the territory of a nation being confirmed in such nation, the next question is whether and to what extent this attribute of national ownership attaches and appertains to individual ownership of land. The inquiry leads to a consideration of whether the landowner has title to the space above his land, whether his ownership extends to an indefinite distance upward, and whether the ownership is of the same character as ownership of the soil or of a qualified sort and limited to certain purposes.

Several theories have been advanced in explanation of the rights of a proprietor in the space above his land—that he has no right in the superjacent space; that he has an absolute and exclusive right therein without limitation upward; and that he owns the space for a limited distance above the land. The Roman law proceeds upon the theory that the air is *res publica* and its use free to all persons as a matter of common right. Justinian, in asserting this to be

⁵ G. D. Valentine, Esq., 22 Jurid. Rev. 16 (May, 1910).

the case, compares the air to the high seas.⁶ The French Code simply asserts that the property in land includes everything above and below the surface.⁷ The German Imperial Code of 1900 (§§ 904, 905) runs as follows: "The right of the owner of a piece of land extends to the space above the surface and to the substance of the earth beneath the surface. The owner may not, however, forbid interference which takes place at such a height or depth that he has no interest in its prevention."⁸ The Code of Switzerland contains a provision of similar import.⁹

The common law with which we are chiefly concerned presents us with the time-honored maxim *cujus est solum, ejus est usque ad coelum*. In Coke on Littleton, it is stated that a landowner owns the "ayr, and all other things, even up to Heaven, for *cujus est solum, ejus est usque ad coelum*."¹ And Blackstone expressed the opinion that "land has in its legal signification an indefinite extent upward as well as downward." It is undeniable that until very recent times this rule was considered sound, and to mean that the owner of land has the exclusive right to the space superjacent thereto. But since a use of the space superjacent to land has been made possible by the modern developments in scientific flight, it has become popular with writers to assert that the rule and the maxim expressed thereby do not express any tenable theory, and consequently must be dismissed from consideration. The Master of the

⁶ G. D. Valentine, Esq., 22 Jurid. Rev. 85; 14 Law Notes 69 (July, 1910); A. J. M'K., Esq., 128 L. T. 498 (April 2, 1910).

⁷ G. D. Valentine, Esq., article cited *supra*.

⁸ A. J. M'K., Esq., article referred to *supra*.

⁹ G. D. Valentine, Esq., article referred to *supra*.

¹ Coke on Littleton, p. 4.

Rolls in 1884 declared that the words *usque ad coelum* were merely a "fanciful phrase."²

However, the maxim *cujus est solum, ejus est usque ad coelum*, is expressive of a doctrine that has existed and does exist in our law; and when properly interpreted the objections to it disappear. The practical meaning of the maxim is that the owner of land owns the fee in the superjacent space, and by occupying it may exclude any other person therefrom. He has a right of exclusive appropriation, and no other person has a right to appropriate it permanently.³ No one will doubt that the owner of land may erect thereon structures of any height. So, also, he may fly kites over his land or keep a captive balloon thereover, be they ever so far from the surface of the earth.⁴ Moreover, the maxim clearly had reference, in its origin and in the minds of the commentators who have given it their approval, to the right of the owner to have the space above his land left in a natural state and to have excluded therefrom whatsoever might prove detrimental to his enjoyment of the land.⁵ With these limitations the maxim should

² Board of Works v. United Telephone Co., 13 Q. B. D. (Eng.) 904, 915.

³ In Baten's Case, 9 Coke (Eng.) 53b, the plaintiff brought a *quod permittat*, alleging that the defendant erected a house at the extremity of his land so as to project or jut over the house of the plaintiffs *in latitudine* 17 inches and *in longitudine* 17 feet *ad nocentum liberi tenementi ipsorum*, etc., and the court resolved that the plaintiffs need not assign any special nuisance, for it appeared to the court that it was to their nuisance, because "by the overbuilding upon part of the house of the plaintiffs he has deprived them of the air; also he has prevented them from building their house higher."

⁴ It is inconceivable at the present time that a landowner might be prohibited from exercising such acts of ownership because of the inconvenience or danger caused to aviators thereby.

⁵ See Hon. S. E. Baldwin, 4 Am. J. Int. L. 95 (January, 1910); 71 Cent. L. J. 1 (July, 1910); 46 Can. L. J. 480 (August, 1910), wherein

be preserved as one of the fundamental principles of our jurisprudence.

§ 290. Right of Aviators to Pass over Private Property.

Assuming that by the rules of our system of jurisprudence a landowner is possessed of the fee in the space superjacent to his land, and may appropriate as much as he can of it, the next inquiry is whether the owner is entitled to compensation for the privilege of using his space for the passage of aerovehicles. Is an invasion of such space a trespass for which the landowner may recover damages? This question is answered in the negative by both reason and the authority that is deducible. The air domain of a proprietor may be utilized by him to any extent, but in so far as he has not appropriated it, it must be deemed to be subject to a servitude of passage by aviators.⁶ The case is analogous to that of the highway upon which the public have a right of passage, while the fee remains in the owner of the abutting land.

Trespass or any other foundation of legal liability proceeds upon an assumption that an injury has been done. To set foot upon another's land without his license to do so is a trespass, although the damage amounts to practically nothing; yet there is some damage—the soil is trodden down or

it is said: "The maxim *cujus est solum, ejus est usque ad coelum*—whose is the soil, his it is even to the sky—did not, when we took our common law from England, carry any thought of human occupation of the superincumbent air, unless by structures attached to the soil. It was intended, as we think the common law, viewed as a system, demonstrates, to indicate that the owner of the soil had the right to forbid the plane above him being used to his detriment."

⁶ G. D. Valentine, Esq., 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

the grass bruised.⁷ The momentary occupation of space above land, suspended upon air which is itself as fugitive as the aeronaut, is quite another matter. The absence of injury is the practical consideration, and should outweigh any others in determining what the rule of law shall be. Mr. Valentine says: "The parceling out of the air between a multitude of persons not only would not benefit them but would deprive them all of the use of which it is capable, for there would be no use of passage when each must confine himself to his own corner. There is, therefore, no interest in any one to exclude his neighbor from such objects as have passage for their only use, but, on the contrary, an interest to each that such things should be common to all. It is no passage and no practical use for each man to circle round and round over his own little plot, and even the air above public roads would not be open to him, being in general the property not of the state but of the adjacent proprietors."⁸ The air space is analogous to a navigable stream which runs through a man's land. Nor is the owner of the fee in the space that may be used for passage entitled to compensation as for a taking of his property; because he has been deprived of nothing whatever. There is not even an injury to which may be applied the rule *de minimis non curat lex*.⁹

⁷ A reason why passing over a person's land does not constitute a trespass is suggested by Sir Frederick Pollock. While expressing the view that an entry over land is a trespass, he qualifies the statement by saying: "Unless indeed it can be said that the scope of possible trespass is limited by that of effective possession." Pollock on Torts, (6th ed.) 333.

⁸ 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

⁹ Mr. Baldwin says that the right of the landowner, "if any, is too tenuous for the state to care to protect by its active intervention. Perhaps we may go further and say that he has no legal right at all over the air above his land, except as far as its occupation by others

The authorities establish that nuisance, not trespass, is the ground upon which a landowner may object to a disturbance of the atmosphere appurtenant to his land. The importance of the distinction rests in this: a trespass imports damage, whereas actual material damage is of the essence of nuisance. If, in testing ordnance, shells are fired across a neck of land, and alight in the water beyond, no trespass is committed and no right of action arises in behalf of the owner of the land. Firing over a vessel is a stronger case against the existence of any right to have the superjacent air space left undisturbed. It will hardly be contended that any rights of the vessel owner have been infringed. But let an occasional projectile plough through the landowner's garden or cut away part of the vessel's rigging, and a different case is presented. The firing has become a nuisance, endangering property and life, and it will be enjoined by a court of equity. In a case arising from the firing of rifle bullets across land, Mr. Justice Hawkins said that "as regards the complaint that when the 1000 yards' range was used the bullets traversed the land of the plaintiff, he did not look upon the ground of complaint as constituting a trespass in the strict technical sense of the term; but he did look upon such firing of bullets as a grievance which, under the circumstances, afforded the plaintiff a legal cause of action." The cause of action, however, arose because "the traversing of the land by the bullets . . . was not unattended by risk, and certainly it would cause a not unreasonable alarm, which rendered the occupation of that part of the farm less enjoyable than the plaintiff was

could be of injury to his estate. This seems to be a view quite in accordance with the spirit of our times. Modern government tends, at all points, to push the public good farther and farther into what was formerly thought the inviolable domain of private right." 4 Am. J. Int. L. 95 (January, 1910).

entitled to have it.”¹ In *Pickering v. Rudd*, (1815), 1 Stark. 56, 2 E. C. L. 32, 4 Campb. 219, Lord Ellenborough had to deal with an action for trespass on account of a board attached to the wall of the defendant, which projected over the land of the plaintiff. The chief justice, in holding that the action was not maintainable, said: “If the board overhanging the plaintiff’s garden be a trespass, it would follow that an aeronaut is liable for an action of trespass *quare clausum fregit* at the suit of the occupier of every field over which his balloon passes in the course of his voyage.” It thus appears that the learned judge considered it absurd to suppose that a trespass was committed by passing over another’s land.

Lastly there has been a popular recognition of the right of strangers to use temporarily the space superjacent to private property. No one has ever questioned the right of a person to have his fowls fly over his neighbor’s land. Nor has it ever been contended that the passing of the smoke from A’s chimney across B’s land amounts to a trespass (though it may be a nuisance) upon B’s property rights. The use of space appurtenant to land for the passage of wireless messages is a similar case. And in the century and a quarter that man has been able to navigate the air, first by balloons and lately by aeroplanes, there has been

¹ *Clifton v. Bury*, (1887) 4 Times L. Rep. (Eng.) 8. See also *Kenyon v. Hart*, (1865) 6 B. & S. 249, 118 E. C. L. 249; *Reg. v. Pratt*, (1854) 4 El. & Bl. 860, 82 E. C. L. 860. *Examine Whittaker v. Stangvick*, 100 Minn. 386, 111 N. W. 295, 10 Ann. Cas. 528 and note, 10 L.R.A.(N.S.) 921, 117 Am. St. Rep. 703. A contrary view was expressed by Sir Frederick Pollock, who said: “As regards shooting, it would be strange if we could object to shots being fired point-blank across our land only in the event of actual injury being caused, and the passage of the foreign body above our soil being thus a mere incident in a distinct trespass to person or property.” *Pollock on Torts* (6th ed.) 333.

no contestation of the right of aeronauts to pass over private land. At many aviation exhibitions the aviators have passed repeatedly over lands of individuals, asserting apparently a right to do so. This continued use of private space demonstrates very clearly a popular understanding and agreement that there exists a right of passage. If there can be such a thing as an estoppel based upon public acquiescence and operating against the public, would not this be a case for its application? At any rate a custom has been established, and custom is the foundation of law if not the concrete rule itself.

§ 291. Nature, Extent, and Incidents of Right of Passage.

The right to use the space appurtenant to private property is a qualified right. It must be exercised reasonably and within restrictions. It is primarily a right of passage only. And it must be exercised so as not to cause a nuisance to the subjacent proprietor. Mr. Valentine says: "Those using the right of passage are bound to do so in the way least burdensome to the proprietor. Not only must they not do him damage, but they are bound to cause him no annoyance not inevitable." Again the same author asserts that "the landowner would be entitled to insist that the use of the air for passage should be exercised in the way least burdensome to him, and so as to be no nuisance to him in however slight a degree."² The moment an aviator ceases to be a passerby he risks becoming a wrongdoer. He may occupy another's space temporarily, but he must not do so longer than is reasonably necessary for passage. The presence of aerovehicles above the land is more or less of

² 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

a menace to life, buildings, crops, etc.³ The law recognizes the risk and concedes the right of passage nevertheless; but it does not permit any increase in the risk by reason of a stoppage, hovering, or the like. Such acts amount to a nuisance *per se*. It follows that the owner of an aero-vehicle has no right to moor it so that it will be over the land of another.

Similarly fowling over private land is unlawful,⁴ even though the birds be migratory in habit. "Accessory to the ownership of the soil, arising *ratione soli*, the proprietor has the sole and exclusive right to shoot fowl within the precincts of his private property, and while on the one hand the right of the owner might have to be exercised at least concurrently with the public servitude for passage, on the other the public would not be at liberty to navigate the air in such manner as to disturb or interfere unnecessarily with the private right of shooting."⁵

The height at which an aviator may lawfully pass over private property must vary according to the circumstances of the case. The criterion is the degree of peril or inconvenience to which the proprietor is subjected.⁶ Passing in close proximity to an ordinary city dwelling can cause little or no more inconvenience than does a motor vehicle or street car moving along the street. But passing over a man's lawn in the country, where he has sought seclusion

³ See Norman Bentwich, Esq., in 45 L. J. 402 (June 18, 1910).

⁴ Charles C. Moore, Esq., 4 Law Notes, 87 (August, 1900); 12 Law Notes, 108; G. D. Valentine, Esq., 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

⁵ Charles C. Moore, Esq., *supra*.

⁶ "What degree of proximity to the surface will constitute a trespass to the property of the landowner must, of course, vary in every case, and it will probably take much litigation to establish general rules that can be relied on as furnishing guides under ordinary circumstances." 44 L. J. 27.

and whereon his children are playing, is another matter. Again, flying so low as to cause fright to domestic animals doubtless renders the aviator liable for whatever damage may result. And it is unlawful to pass so near to a secluded dwelling that the vapor from the motor proves an annoyance to the occupants.

The question arises whether or not a nuisance may exist merely by the loss of privacy and seclusion which land-owners may sustain by the passage of aviators. It is believed that the mere fact that passing aviators may observe a person's grounds, and to some extent pry into his affairs, does not affect the right of passage. Mr. Valentine says: "The owner cannot, as we think, complain of the loss of his privacy owing to his estates being subject to be incidentally seen from above. In many places in the neighborhood of large towns owners have been to great expense in walling round their parks so as to seclude them; cars have shortly after run past, from whose roofs the public have a complete and close view of these gardens and pleasancess; yet we never heard that any action could lie on this account. Similarly, if the result of the invention of aeroplanes be that gardens become subject to be occasionally overlooked, we fear that this is an unavoidable misfortune."⁷ A person undeniably may erect a tower upon his land, wherefrom he may view the landscape of his neighbor. A captive balloon doubtless may be used to the same end. And the fact that the observer acts with malice does not constitute his acts unlawful.

The right of passage is qualified in another particular—the extent to which the space appurtenant to private property is used. There can be no doubt but what the use of aerovehicles in great numbers or continuously over a per-

⁷ 22 Jurid. Rev. 85; 14 Law Notes 69 (July, 1910).

son's land may constitute a nuisance, whereas the passage of one or two may be a perfectly legitimate use of such space. "One a year flying over a man's house might be a negligible menace, but forty or fifty a day, with ropes dangling, ballast falling, anchors hanging, motors in danger of exploding, and the whole machine liable to drop and set fire to or smash crops or dwellings, would be an entirely different matter."⁸ So, if an aerial line were established through a person's superjacent space, the vehicles of which passed at frequent intervals and but a short distance from the surface, a nuisance might and probably would result.

§ 292. Regulation of Use of Aerovehicles.

From the foregoing discussion it appears that a nation has full ownership and control of the space appurtenant to its territory. It may, therefore, exclude alien aerovehicles or permit their passage subject to whatever restrictions the legislature chooses to impose.⁹ Comity, however, will influence all nations to admit foreign aerovehicles upon compliance with reasonable conditions.¹ The payment of tolls no doubt may and perhaps will be required for the

⁸ 16 Case and Comment, 216 (February, 1910).

⁹ Hon. S. E. Baldwin, 4 Am. J. Int. L. 95 (June, 1910); Norman Bentwich, Esq., 45 L. J. 402 (June 18, 1910); A. J. M'K., 128 L. T. 498 (April 2, 1910); G. D. Valentine, Esq., 22 Jurid. Rev. 16 (May, 1910).

¹ Mr. Valentine says: "The state could, if it thought fit, be entitled to insist that foreign vessels should enter its territory by definite routes, and should descend for examination at the frontier; but probably, in the smaller states of the Continent at least, the universal enforcement of such a regulation would cause annoyance disproportionate to its value, and it might be sufficient to provide that airships actually touching on the territory should await and submit to a visit by the nearest authority." 22 Jurid. Rev. 16 (May, 1910).

privilege of passage. Again, tariff duties may be imposed upon all articles brought into the country.²

A nation has also the duty of regulating aerial traffic with a view to preventing it from being a nuisance to its inhabitants. The passage of aerovehicles is a menace to the lives and property of the people. Therefore measures reasonably calculated to diminish the danger are justified. These requirements may follow the precedents established in the case of vessels and motor cars. So we may expect regulations regarding registration or licensing of vehicles and aviators, display of number, equipment, rules of the road, and the like.³ In France steps have already been taken with a view to regulating aerial traffic. The Aero Club, of France, has suggested to the Minister of Public Works a measure insuring the privacy of inclosed spaces such as courtyards and gardens, the end being gained by making it a punishable offense for pilots to cross such property at a height of less than a hundred and fifty feet, or to come to rest above them unless at least fifteen hundred feet distant. Moreover, towns are to be avoided alto-

² It has been said: "The matter might be dealt with on the lines of motor-cars when it is desired to pass through several countries on a tour. The motorist usually belongs to a recognized organization, which issues a *triptyque* franking him through them all. His name and address are registered, and a certain sum is deposited beforehand to cover the duties imposed by the various customs—which is returned if his stay is brief—while in some cases both driver and car are either subjected to an examination as to their respective efficiency, or evidence to the same effect is required from a responsible authority." A. J. M'K., 128 L. T. 498 (April 2, 1910).

³ "A rule of the road will have to be laid down; dirigible balloons may be expected to give way to nondirigibles, and perhaps aeroplanes to dirigibles; a code of signals may be arranged for and provision made for lamps being carried by night." G. D. Valentine, Esq., 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

gether.⁴ A suggestion that will commend itself is one requiring aviators as a condition to the right of passage to file an indemnity bond or procure a contract of insurance that shall cover any claims to compensation for damages sustained through their fault.⁵

§ 293. Power of Congress to Regulate.

The power "to regulate commerce with foreign nations and among the several states" is conferred upon the United States Congress by the Constitution. The extent of this power in respect of aquatic navigation has been stated by the United States Supreme Court as follows: "Commerce includes navigation. The power to regulate commerce comprehends the control for that purpose, and to the extent necessary, of all the navigable waters of the United States which are accessible from a state other than those in which they lie. For this purpose they are the public property of the nation, and subject to all the requisite legislation by Congress. This necessarily includes the power to keep them open and free from any obstruction to their navigation, interposed by the states or otherwise; to remove such obstructions when they exist; and to provide, by such sanctions as they may deem proper, against the occurrence of the evil and for the punishment of offenders. For these purposes, Congress possesses all the powers which existed in the states before the adoption of the national Constitution, and which have always existed in the Parliament in England."⁶ The fact that the title to the shore and submerged soil is in the various states and individual owners

⁴ A. J. McK., 128 L. T. 498 (April, 1910).

⁵ Hon. S. E. Baldwin, 4 Am. J. Int. L. 95 (January, 1910); A. J. McK., 128 L. T. 498 (April 2, 1910).

⁶ *Gilman v. Philadelphia*, 3 Wall. 724, 18 U. S. (L. ed.) 96.

under them does not affect the power of Congress in this respect.⁷ It is also established that navigable waters in this sense are such waters as form in their ordinary condition, by themselves or by uniting with other waters, a continued highway over which commerce is or may be carried on with other states or foreign countries in the customary mode in which such commerce is conducted by water.⁸ These principles, without doubt, apply to the subject under consideration, and establish that jurisdiction and control of the navigable atmosphere within the territory of the United States, and of the aerovehicles engaged in navigating it, are lodged in the federal government and not in the states.⁹ And this power undoubtedly extends to all of those matters in respect of which vessels have been held to be subject to regulation; that is, rules of navigation, lights, lookouts, signals, inspection, registry, entry at ports, and so on. Of course upon settled principles, if Congress has not seen fit to exercise its power in this respect, each state has exclusive jurisdiction over the navigable atmosphere lying superjacent to its territory, and may pass such laws regulating the use thereof as it may deem wise. It has been held that until Congress acts upon the

⁷ *Gibson v. U. S.*, 166 U. S. 271, 17 Sup. Ct. 578, 41 U. S. (L. ed.) 996.

⁸ *The Daniel Ball*, 10 Wall. 557, 19 U. S. (L. ed.) 999; *Miller v. New York*, 109 U. S. 395, 3 Sup. Ct. 228, 27 U. S. (L. ed.), 971; *Egan v. Hart*, 165 U. S. 188, 17 Sup. Ct. 300, 41 U. S. (L. ed.) 680, *affirming* 45 La. Ann. 1358, 14 So. 244. The only waters not subject to the control of Congress are such as can be used only for transportation of persons or property between different places in the same state. *The Montello*, 11 Wall. 411, 20 U. S. (L. ed.) 191, 20 Wall. 430, 22 U. S. (L. ed.) 391; *Veazie v. Moor*, 14 How. 568, 14 U. S. (L. ed.) 545. The atmosphere is not of this character. In fact, it flows over the surface of the whole country, like a flood rendering navigation possible over what previously was land.

⁹ 71 Cent. L. J. 1; 17 Case and Comment, 288.

subject, a state has plenary power over navigable waters which are entirely within its confines, although connecting with waters beyond its boundaries.¹

§ 294. Civil Liability of Aviators.

In determining the liability of the owner or operator of an aerovehicle the status of such vehicles or of the particular vehicle in controversy must be considered. Are such vehicles "legal," or are they nuisances? If it must be said that the character of all balloons and aeroplanes, or of a particular contrivance of like character, is such as to constitute them inherently vicious, the aviator or owner is liable for any and all injury that his vehicle may do to others. This question is one of fact, and is to be determined by an inquiry as to the extent to which these vehicles have been used and recognized in the particular community. If a custom of aviation has been established they are to be regarded as a legitimate means of transportation. Or, if although novel in the locality there is a general acquiescence in their introduction into use, and popular opinion regards them as not being a menace or source of danger, the result is the same.² For the purposes of the present discussion it is assumed that aerovehicles are not inherently dangerous or a nuisance *per se*, as indeed seems to be considered true in some places. Conceding the point, rules for determining the liability of aviators are to be sought in the law relating to negligence and nuisances. It may be that this is looking

¹ Willson v. Black Bird Creek Marsh Co., 2 Pet. 245, 7 U. S. (L. ed.) 412; Lake Shore, etc., R. Co. v. Ohio, 165 U. S. 365, 17 Sup. Ct. 357, 41 U. S. (L. ed.) 747; U. S. v. Bellingham Bay Boom Co., 176 U. S. 211, 20 Sup. Ct. 343, 44 U. S. (L. ed.) 437, reversing 81 Fed. 658, 48 U. S. App. 443, 26 C. C. A. 547.

² Aerovehicles, it is submitted, are not to be classed with dangerous agencies, such as explosives, ferocious animals, and the like.

into the future, and that meanwhile aviators will be held to be insurers against all injury that may be attributable to the operation of their vehicles.³

§ 295. Liability Arising from Negligence.

Negligence is a failure to discharge a legal duty. Therefore we must inquire what duties rest upon aviators. Certain of these may be deduced from the elemental principles of law and the rules announced in analogous cases. Additional duties may of course be imposed by statute. At the outset it may be stated as a broad rule that aviators owe to others generally a duty to exercise such care as is reasonable in view of the surrounding circumstances. The maxim is *sic utere tuo ut alienum non laedas*, meaning that there is a general duty upon every one to conduct himself or use or employ his own property so as not to injure others.⁴ The standard of care, of course, is that degree of care commonly exercised in the locality by other persons similarly situated. This standard will vary from time to time, and it will not be the same in all communities.

³ Mr. Valentine seems to be of this opinion. 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910). But he apparently considers aerovehicles extremely dangerous, a matter which the present writer doubts so far as third persons are concerned. Balloons surely are harmless enough. And aeroplanes are not to be compared with the deadly motor car. A comparison of aviation tournaments and motor races demonstrates this. In the course of an aviation meeting lasting a week or more no one is injured—except the performers—whereas a motor race of a few hours has a number of times resulted in many deaths.

⁴ An aviator named Van Heulen, who accidentally killed a woman at Issy, France, was sentenced to pay a fine of \$10 for carelessness and \$1,000 damages to the woman's husband. At Limoges an aviator named Bailed was sentenced to a month's imprisonment and \$75 fine for killing a girl at an aviation meeting. New York Sun, Jan. 19, 1911, p. 3.

An aviator himself must be reasonably proficient in the management and control of his vehicle. If his incompetency is the cause of an injury to the person or property of another, he must respond in damages. Likewise the aviator must exercise care to determine whether his vehicle is in good order and properly equipped. Again, an aviator must exercise caution with respect to the meteorological conditions. "If the aeronaut chooses to go out in such weather that a reasonable man would foresee an accident as the probable result, and if an accident takes place and people are hurt, they would surely have a good claim."⁵ And in the management of his craft the aviator of course must obey the "rules of the road" and other rules that may be prescribed by law.

§ 296. *Vis Major* and Inevitable Accident.

But an aviator is not liable for any injury caused by the operation of his vehicle if he has been guilty of no negligence; in other words, if the injury is attributable to *vis major* or inevitable accident. If a person, while doing a lawful act, using due care and all proper precautions necessary to the exigency of the case to avoid hurt to others, nevertheless does injure another, the injury must be deemed to be the result of pure accident and no action will lie.⁶ Likewise, if an injury proceeds from physical causes alone, such as the violence of the wind, seas, lightning, or other natural cause, no liability is incurred.⁷ Consequently if an aviator loses control of his vehicle because of meteorological disturbances, and the vehicle comes into contact with

⁵G. D. Valentine, Esq., 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

⁶Brown v. Kendall, 6 Cush. (Mass.) 297.

⁷Lord Mansfield in *Trent Nav. Co. v. Wood*, 3 Esp. (Eng.), 131.

persons or property and does an injury, the aviator is not liable therefor.⁸ The *damnum* is *absque injuria*. The rule is the same if an aviator's craft catches fire without fault on his part.

§ 297. Liability Arising from Nuisance.

While aerovehicles are not to be regarded as nuisances *per se*, yet they may produce a nuisance by reason of their mode of construction or operation. Any increase in the danger ordinarily arising from the operation of such vehicles constitutes a nuisance to a person whose life, limb, or property is imperiled. An aeroplane of such a type as to be unusually dangerous by reason, for example, of its not being equipped with the appliances customarily employed for controlling the movements of aeroplanes, would be a nuisance to a person over whose head or house it might be operated. The case is analogous to that of keeping a dangerous or vicious animal after notice of its character. So a vehicle which drops combustibles, sparks, or articles of any character that are calculated to do any injury to person or property, is a nuisance. In these cases an aviator cannot exonerate himself from liability by showing that he exercised care to prevent an accident.⁹

Likewise the operation of an aeroplane in a reckless and dangerous manner is a nuisance.

Also the operation of aeroplanes in great numbers over a person's house or grounds constitutes a nuisance, and the

⁸ Mr. Valentine points out that "very difficult questions of fact may, however, be expected to arise, as the result of the accident will probably be to leave the machine in such a state that it will be hard to point to the original cause of the accident, and the only person who could speak to it, the aeronaut, may not infrequently be a victim." 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

⁹ Fletcher v. Rylands, L. R. 1 Exch. 265, L. R. 3 H. L. 330, 4 H. & C. 263, 1 Eng. Rul. Cas. 236, is applicable to this situation.

noise of many aerovehicles passing within a short distance of a dwelling in a secluded place would be a nuisance.

§ 298. Alighting upon Private Land.

Of course an aviator has no right to alight on private property without license from the owner thereof. If he does so, as a general proposition he commits a trespass and subjects himself to liability for whatever damage may have been the proximate result of his acts. The rule has exceptions, however. If an aviator is forced to alight by reason of an act of God or an inevitable accident he cannot be held accountable. Accordingly if an aerovehicle is precipitated to the earth by the violence of sudden storm, which could not have been foreseen by the exercise of due care on the part of the aviator, no liability is incurred although injury to person or property may have been done.¹ And so, if through no fault of his own his supply of fuel for the motor of his craft is exhausted, or his vehicle becomes disabled, and he is forced to alight upon private property, he is not to be deemed a trespasser.²

Furthermore, in case of necessity an aviator may alight upon another's land without being a trespasser. "There are many cases in the books which hold that necessity, and an inability to control movements inaugurated in the proper exercise of a strict right, will justify entries upon land and interferences with personal property that would otherwise

¹ If a vessel is driven by the force of a storm, against another vessel or a dock or bulkhead, the vessel or her owner is not liable for the damage done, there being no negligence on the part of the master. *The Austria*, 9 Fed. 916; *Arbo v. Brown*, 9 Fed. 318.

² If a horse escapes from the control of its rider, and, in spite of the rider's efforts to prevent an accident, collides with and injures person or property, the rider is not liable. *Gibbons v. Pepper*, 4 Mod. (Eng.) 405.

have been trespasses."³ This doctrine applies with especial force to the preservation of human life.⁴ The rule is confined to cases of sudden necessity arising from unforeseeable causes; it does not permit an aviator to alight upon the land of another as a matter of convenience merely, or when by the exercise of due care another way lies open to him.⁵ And of course he must alight in such a place and manner as to do as little damage as possible.

§ 299. *Guille v. Swan.*

Upon the question of an aeronaut's liability for damages done in alighting upon private property we are not without direct authority. The point was passed upon in *Guille v. Swan*, 19 Johns. (N. Y.) 381, 10 Am. Dec. 234, decided in 1822. The facts of this case were as follows: Guille ascended in a balloon in the vicinity of Swan's garden, and descended into the garden. When he descended, his body was hanging out of the car of the balloon in a very perilous situation, and he called to a person at work in Swan's field, to help him, in a voice audible to the pursuing crowd. After the balloon descended, it dragged along over potatoes and radishes, about thirty feet, when Guille was taken out. When the balloon descended, more than two hundred persons broke into Swan's garden through the fences, and came on his premises, beating down his vegetables and flowers. The damage done by Guille, with his balloon, was about fifteen dollars, but the crowd did much more. The plaintiff's damages, in all, amounted to ninety dollars. It

³ *Ploof v. Putnam*, 81 Vt. 474, 71 Atl. 188, 15 Ann. Cas. 1151, 20 L.R.A. (N.S.) 152, 130 Am. St. Rep. 1072.

⁴ One whose life is imperiled by the assault of another may go upon the land of a third person without being guilty of trespass, Year Book, 37 Hen. VI. 37, pl. 26, referred to in 81 Vt. 475.

⁵ See *Campbell v. Race*, 7 Cush. (Mass.) 408, 54 Am. Dec. 728.

was contended that Guille was answerable only for the damage done by himself, and not for the damage done by the crowd. The court refused to adopt this view of the case and affirmed a judgment for all of the damage sustained by the plaintiff. Mr. Chief Justice Spencer, who delivered the opinion, spoke as follows: "I will not say that ascending in a balloon is an unlawful act, for it is not so; but it is certain that the aeronaut has no control over its motion horizontally; he is at the sport of the winds, and is to descend when and how he can; his reaching the earth is a matter of hazard. He did descend on the premises of the plaintiff below, at a short distance from the place where he ascended. Now, if his descent, under such circumstances would, ordinarily and naturally, draw a crowd of people about him, either from curiosity or for the purpose of rescuing him from a perilous situation, all this he ought to have foreseen, and must be responsible for."

This case, it will be seen, is in conflict with the theories above set forth. Guille was in peril when he was dragged across Swan's garden, also no negligence was charged against him; yet he was held liable. The court then did not recognize the theory of necessity, nor did the case proceed upon the ground of negligence. ⁶The real reason of the decision is that a balloon is a dangerous device and that a person who ascends in one is liable as an insurer for all damage that may result therefrom.⁶ This was in Mr. Chief Justice Spencer's mind when he rendered the decision, for he quotes Lord Ellenborough as saying that "if I put in motion a dangerous thing, as if I let loose a dangerous animal, and leave to hazard what may happen, and mischief ensue, I am answerable in trespass."⁷

⁶ The doctrine of *Fletcher v. Rylands*, L. R. 1 Exch. 265, L. R. 3 H. L. 330, 4 H. & C. 263, 1 Eng. Rul. Cas. 236.

⁷ *Leame v. Bray*, 3 East (Eng.), 595.

Is this case to be deemed an authority? It is submitted that it is not in respect of aeroplanes and, perhaps, of dirigibles. These vehicles are not "at the sport of the winds" as was Guille's balloon. Indeed, it has been demonstrated that aeroplanes can combat successfully winds of very great violence. The aviator, provided he choose favorable meteorological conditions, may spend hours aloft with very great assurance that he will land upon the spot wherefrom he left the earth. The cases are plainly distinguishable. With balloons, however, the case may be different. Guille's balloon was probably as nearly under control as the modern balloons. Unless sentiment has changed it would seem that *Guille v. Swan* requires a holding that balloonists are liable as insurers.

§ 300. Articles Falling from Aerovehicles.

For injury to person or property caused by articles being intentionally thrown from an aerovehicle the aviator may be held liable—if he can be detected. "To fling heavy articles, such as bottles, overboard is plainly negligent, and we may here apply *Fletcher v. Rylands*, and say that it is quite immaterial whether the person throwing them out sees people below or foresees the possibility of an injury or not."⁸ If objects thrown out alight upon private property a trespass is committed.

As to injury by articles dropped unintentionally from aerovehicles the aviator may be held accountable only in case of negligence on his part. But it would seem that such an occurrence is so contrary to what may be expected that the doctrine of *res ipsa loquitur* is applicable to the

⁸ G. D. Valentine, Esq., 22 Jurid. Rev. 85; 14 Law Notes, 69 (July, 1910).

case.⁹ All parts of the equipment of aerovehicles may be expected to be adequately secured in place, and a high degree of care would be exercised to prevent the falling of unattached objects.

§ 301. Jurisdiction of Crimes and Torts Committed on Aerovehicles.

By reason of the fact that territorial sovereignty extends to the space superjacent to the land,¹ the courts having jurisdiction of offenses committed upon the surface of the earth must be deemed also to have jurisdiction of offenses committed in the space appurtenant thereto; in other words, the courts of a nation, state, or county have jurisdiction of crimes perpetrated in the space superjacent to such nation, state, or county. Also, by analogy with the rule of the maritime law, it must be held as a general rule that the courts of a nation have jurisdiction of offenses committed on aerovehicles of such nation although a vehicle at the time of the commission of the particular offense was navigating the space superjacent to the high seas or to the territory of another nation.

Actions to recover damages for torts are not local but transitory, and such an action as a rule may be maintained wherever the wrongdoer may be found; that is, the remedy may be enforced in any court to whose jurisdiction he can be subjected by personal process or voluntary appearance.²

⁹ *St. Louis, etc., R. Co. v. Neely*, 63 Ark. 636, 40 S. W. 130, 37 L.R.A. 616 (object falling from passing train). But see *Case v. Chicago, etc., R. Co.*, 69 Ia. 449, 29 N. W. 596, 64 Ia. 762, 21 N. W. 30.

¹ See *supra*, § 288.

² *Dennick v. Central R. Co.*, 103 U. S. 17, 26 U. S. (L. ed.) 439; *Stewart v. Baltimore, etc., R. Co.*, 168 U. S. 448, 18 Sup. Ct. 105, 42 U. S. (L. ed.) 537.

§ 302. Jurisdiction of Federal and State Courts.

The courts of the various states of the Union have jurisdiction of offenses committed by aviators while within the space appurtenant to their territory. But in the case of offenses committed in the atmosphere over the high seas or over the territory of a foreign nation or state the elemental principles of our criminal law deny jurisdiction. The penal laws of every sovereign nation or state are in the strictest sense local and therefore cannot be enforced by the tribunals of any other state. Hence, unless such offenses are cognizable by the federal courts, the criminal will go unpunished. Are they? So far as territorial considerations are concerned, the federal courts have jurisdiction of offenses so committed. It is provided by the Constitution of the United States that "such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state the trial shall be at such place or places as the Congress may by law have directed."³ And Congress has declared that "the trial of all offenses committed upon the high seas or elsewhere out of the jurisdiction of any particular state or district shall be in the district where the offender is found or into which he is first brought."⁴

But the whole criminal jurisdiction of the courts of the United States is derived from Acts of Congress.⁵ The constitution declares that "the judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls;

³ U. S. Const., art. 3, § 2, subdiv. 3.

⁴ U. S. Rev. St., § 730.

⁵ *Jecker v. Montgomery*, 13 How. 515, 14 U. S. (L. ed.) 240; *Jones v. U. S.*, 137 U. S. 211, 11 Sup. Ct. 80, 34 U. S. (L. ed.) 691.

to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects."⁶ It is established that this provision does not confer jurisdiction over offenses recognized by the common law. There are no common-law offenses against the United States.⁷ There is no common law of the United States distinct from the common law of the several States.⁸ Nor have the federal courts merely by virtue of the grant of judicial power above set forth any jurisdiction of maritime offenses.⁹ Therefore one must examine the statutes

⁶ U. S. Const., art. 3, § 2.

⁷ See *U. S. v. Morrall*, 2 Dall. 384, 1 U. S. (L. ed.) 426; *U. S. v. Britton*, 108 U. S. 206, 2 Sup. Ct. 531, 27 U. S. (L. ed.) 698; *U. S. v. Eaton*, 144 U. S. 687, 12 Sup. Ct. 764, 36 U. S. (L. ed.) 591.

⁸ *Smith v. Alabama*, 124 U. S. 478, 8 Sup. Ct. 564, 31 U. S. (L. ed.) 508.

⁹ *Manchester v. Massachusetts*, 139 U. S. 262, 11 Sup. Ct. 559, 35 U. S. (L. ed.) 159.

In *U. S. v. New Bedford Bridge*, 1 Woodb. & M. 401, 27 Fed. Cas. No. 15,867, the court held that the declaration that the judicial power shall extend to all cases of admiralty and maritime jurisdiction does not enable a court to punish any act as a crime unless the Constitution, or some treaty or Act of Congress, makes it a crime and confers authority on that court to punish it. Mr. Justice Betts stated that "it is a fundamental doctrine, in respect to the federal courts of inferior jurisdiction, that they cannot take cognizance of criminal offenses of any grade, without the express appointment or direction of positive law. To enable them to exercise the functions bestowed by the Constitution over crimes and misdemeanors, there must be a designation, by positive law, both of the offense and of the tribunal which shall take cognizance of it." *U. S. v. Wilson*, 3 Blatchf. 437, 28 Fed. Cas. No. 16,731. Mr. Justice Story, however, said: "The Constitution has given to the judicial power

of the United States in order to determine whether a crime committed on an aerovehicle outside of the jurisdiction of any state court is within the judicial cognizance of the federal courts.

Congress has enacted numerous laws relating to crimes committed on the high seas, and the jurisdiction of the federal courts thereover. Do these laws in the absence of statute extend to acts done on aerovehicles? It would seem upon general principles that they do not, unless the vehicle is an amphibious contrivance alternating between the air and water. Congress, however, may extend the provisions of the statutes of the United States for the punishment of offenses committed upon the high seas to like

of the United States the jurisdiction as 'to all cases of admiralty and maritime jurisdiction,' and this jurisdiction of course comprehends criminal as well as civil suits. The admiralty is a court of extensive criminal as well as civil jurisdiction, and has immemorially exercised both. At least, no legal doubt of its criminal authority has ever been successfully urged. By the law of the admiralty, offenses for which no punishment is specially prescribed are punishable by fine and imprisonment; and as offenses of admiralty jurisdiction are exclusively cognizable by the United States, it follows that all such offenses are offenses against the United States. We have adopted the law of the admiralty in all civil causes cognizable by the admiralty; must it not also be adopted in offenses cognizable by the admiralty? It will perhaps be said that express jurisdiction is given in civil cases of admiralty jurisdiction, but not in criminal cases. This is true in terms; but I contend that criminal cases are necessarily included in the grant of cognizance of all 'crimes and offenses cognizable under the authority of the United States;' for crimes and offenses within the admiralty jurisdiction are not only cognizable, but cognizable exclusively under the authority of the United States. And Congress, in punishing certain offenses upon the high seas, which are neither piracies nor felonies, have undoubtedly acted upon the conviction that such offenses were of admiralty and maritime jurisdiction. Whatever room, therefore, there may be for doubt as to what common-law offenses are offenses against the United States, there can be none as to admiralty offenses." *U. S. v. Coolidge*, 1 Gall. 496, 25 Fed. Cas. No. 14,857.

acts committed on aerovehicles navigating the atmosphere under the control of the United States or over the high seas.¹

It may be contended that the federal courts have jurisdiction of actions based upon torts committed on aerovehicles while over the high seas or the navigable waters of the United States. It would seem, however, that no such jurisdiction exists. The admiralty courts are courts of circumscribed jurisdiction. The extent of their jurisdiction is to be determined by a reference to the usages in the states at the time when the Constitution was adopted.² The common-law courts on the other hand are the tribunals of general jurisdiction and resort, in which resides power to take cognizance of any character of wrong.³

§ 303. Aerial Warfare.

The use of aerovehicles in warfare has received the attention of jurists of many nations; and views have been expressed as to the rights of belligerents and neutrals.⁴ For many purposes the swift-moving aeroplane no doubt may be employed in warfare, but opinion is against the use of aerovehicles for purposes of attack. At the first Peace Conference at the Hague in 1899 the representatives of all the participating nations, save Great Britain, Italy, and Japan, signed a convention prohibiting for five years the discharge of projectiles and explosives from balloons. This prohibition was renewed at the conference of 1907,

¹ *Jones v. U. S.*, 137 U. S. 211, 11 Sup. Ct. 80, 34 U. S. (L. ed.) 691.

² *Cunningham v. Hall*, 1 Cliff. 43, 6 Fed. Cas. No. 3,481; *Bains v. The James & Catherine*, Baldw. 544, 2 Fed. Cas. No. 756.

³ Accordingly the common-law rule that contributory negligence bars a recovery would be applicable; not the admiralty rule permitting a division of the damages.

⁴ *Norman Bentwich, Esq.*, 45 L. J. 402 (June 18, 1910); *G. D. Valentiné, Esq.*, 22 Jurid. Rev. 16 (May, 1910); 44 L. J. 558.

though only twenty-seven nations out of forty-four ratified the article.⁵

Belligerents probably will be accorded a right of passage through the atmosphere of a neutral nation,⁶ but such atmosphere should not be made a base of operations, even if such a thing should be possible. Landing and taking up supplies will not be permissible; and, of course, the carrying on of hostilities in the space of a neutral state likewise will be denounced.⁷

⁵ Norman Bentwich, Esq., 45 L. J. 402 (June 18, 1910).

⁶ "La navigation aérienne des états neutres est prohibée dans toutes les fractions de l'atmosphère qui domine le territoire d'un pays belligérant ainsi que dans un rayon de 11,000 mètres à compter de ses côtes," is M. Fauchille's suggestion, according to a statement in 44 L. J. 558.

⁷ Norman Bentwich, Esq., 45 L. J. 402 (June 18, 1910); G. D. Valentine, Esq., 22 Jurid. Rev. 16; May, 1910; 44 L. J. 558.

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ALABAMA.

ACT OF OCT. 9, 1903.

- § 1. Registration of Vehicles Required.
- 2. Details of Registration—Certificate—Fees—Applicability to Dealers and Manufacturers.
- 3. Speed on Passing Persons, Animals, Schools, Churches, etc.
- 4. Speed Generally.
- 5. Equipment—Muffler—Brakes, etc.
- 6. Stopping on Signal from Driver of Horse.
- 7. Giving Act to Grand Jury in Special Charge.
- 8. Penalties for Violation of Act—Second Offense.

An Act to regulate running, operating or driving automobiles, locomobiles and motor vehicles of like kind upon the public roads and highways of this State.

[Act approved Oct. 9, 1903; Laws 1903, pp. 497-499.]

Be it enacted by the Legislature of Alabama:

§ 1. [*Registration of Vehicles Required*].—That it shall be unlawful for any person to run, operate or drive any automobile, locomobile, or motor vehicle of like kind on the public roads and highways of this state without first registering same as hereinafter provided and without complying with the provisions of this act.

§ 2. [*Details of Registration—Certificate—Fees—Applicability to Dealers and Manufacturers*].—That any person acquiring any automobile, locomobile or motor vehicle, shall within ten days after acquiring the same register such vehicle in the office of the probate judge of the county of the residence of the owner or in which said vehicle is to be run or operated, in a book to be kept for that purpose by said judge, giving the name and exact residence of the owner or person

who shall run or operate said automobile, locomobile, or motor vehicle, of like kind, and the name and style of the vehicle. Said book shall be open to the inspection of the public at all times. Said probate judge shall thereupon issue his certificate of registration of such person, showing the name and residence of the owner or person who shall run or operate said vehicle, the name and style of the vehicle and the number of the certificate of registration, beginning with number one and numbering forward in numerical order as the applications for registration are made. Such certificate of registration and number shall not be transferable. Such probate judge shall be entitled to a fee of twenty-five cents for each certificate of registration under this act to be paid by the applicant. This section shall not apply to a person, manufacturing or dealing in automobiles, locomobiles or motor vehicles, except those for his own private use.

§ 3. [*Speed on Passing Persons, Animals, Schools, Churches, etc.*].—No automobile, locomobile, or motor vehicle propelled by steam, gasoline or electricity or other source of energy shall pass a person driving a horse or horses or other domestic animal, or foot passengers walking in the roadway of the highway, at a greater rate of speed than eight miles per hour, nor pass a public school, in school days when school is held between the hours of eight o'clock ante meridian and four o'clock past meridian, or pass a building of public worship on the Sabbath day during the usual hours of service at a greater rate of speed than eight miles per hour, or cross a dam or causeway where the traveled portion of the road bed is less than twenty feet wide at a greater rate of speed than four miles per hour.

§ 4. [*Speed Generally*].—That no person shall run, operate or drive an automobile, locomobile or motor vehicle of like kind on any public road or highway of this state at a greater rate of speed than eight miles an hour.

§ 5. [*Equipment—Muffler—Brakes, etc.*].—That it shall be unlawful for any person to run, operate or drive any automobile, locomobile or motor vehicle of like kind upon the public roads and highways of this state unless the same be equipped with suitable and efficient appliances to lessen noxious odors, diminish noise and bring such vehicle to a quick stop.

§ 6. [*Stopping on Signal from Driver of Horse*].—That every person driving an automobile, locomobile or motor vehicle, shall at request or signal by putting up the hand, from a person riding or driving a restive horse or horses, or driving domestic animals, cause such vehicle to stop and remain stationary, and upon request, shall cause the engine of such vehicle to cease running, so long as may be necessary to allow said horse or domestic animals to pass.

§ 7. [*Giving Act to Grand Jury in Special Charge*].—That it shall

be the duty of the judge of all courts of record in this state having grand juries, to give this act in special charge, and it shall be the duty of the grand juries to indict any person who has violated, or failed to comply with the provisions and requirements of this act.

§ 8. [*Penalties for Violation of Act—Second Offense*].—That any person violating any of the provisions of this act, or failing to comply with the requirements thereof, shall be guilty of a misdemeanor and on conviction shall be punished for the first offense by a fine of not less than twenty nor more than one hundred dollars, and on any subsequent conviction, shall be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment in the county jail for not less than thirty days nor more than six months.

CALIFORNIA.

ACT OF MARCH 18, 1905; PENAL CODE, § 499b.

§ 499b. Taking Vehicle without Permission—Punishment.

ACT OF MARCH 21, 1905; CIVIL CODE, § 524.

§ 524. Franchise for Construction of Special Roads for Motor Vehicles.

ACT OF MARCH 22, 1905.

§ 1. Definitions—"Motor Vehicle," etc.

§ 5. Subdiv. 1. Registration of Chauffeurs—Application—Fee.

2. Record of Registration—Assignment of Number.

3. Chauffeur's Badge—Form—Display.

4. Transfer of Badge—Fictitious Badge.

5. Driving Conditioned upon Compliance Herewith.

ACT OF MARCH 23, 1907.

§ 1. Act of March 22, 1905, § 2, amended.

§ 2. Subdiv. 1. Registration of Vehicles—Application—Fee.
2. Record of Registration—Assignment of Number.

3. Seal—Form—Display.

4. Previous Registration—Seal—Fee—Sale of Vehicle.

5. Display of Number—Mode.

6. Registration by Manufacturers and Dealers—
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- § 2. Subdiv. 7. Display of Another or Fictitious Number.
- 8. Use of Vehicles Conditioned Upon Compliance Herewith—Recently Purchased Vehicles.
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- 3. Approaching Pedestrians or Horses—Warning—Care.
- 4. Signal to Stop—Care—Stopping Motor.
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- 6. Races—Setting Aside Highway.
- § 3. Act of March 22, 1905, § 4, amended.
- § 4. Subdiv. 1. Keeping to Right on Meeting, Left on Passing—Rule at Crossways.
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- § 6. Penalties—Second and Third Offenses.
- § 5. Act of March 22, 1905, additional section 8a.
- § 8a. Motor Vehicle Department—Personnel.
- § 6. Time of Taking Effect.

ACT OF MARCH 20, 1909; PENAL CODE, § 499c.

§ 499c. Taking Vehicle without Authority—Penalty.

An Act to add a new section to the Penal Code, to be numbered section four hundred and ninety-nine b, relating to the unauthorized taking for temporary use or operation of automobiles, bicycles, motorcycles and other vehicles.

[Approved March 18, 1905; St. 1905, c. 190.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

§ 1. [*New Section of Penal Code*].—A new section is hereby added to the Penal Code, to be numbered four hundred and ninety-nine b, to read as follows:

§ 499b. [*Taking Vehicle Without Permission—Punishment*].—Any person who shall, without the permission of the owner thereof, take any automobile, bicycle, motor cycle, or other vehicle, for the purpose of temporarily using or operating the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

An Act to add a new section to the Civil Code to be numbered five hundred and twenty-four, relating to franchises for the construction of paths and roads for the use of horseless vehicles.

[Approved March 21, 1905; St. 1905, c. 427.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

§ 1. [*New Section of Civil Code*].—A new section is hereby added to the Civil Code, to be numbered five hundred and twenty-four, and to read as follows:

§ 524. [*Franchise for Construction of Special Roads for Motor Vehicles*].—The legislative or other body to whom is intrusted the government of any county, city and county, city, or town, may, under such regulations, restrictions, and limitations as it may provide, subject to existing laws, grant franchises for the construction of paths and roads, either on the surface, elevated, or depressed, on, over, across, or under the streets and public highways of any such county, city, or town, for the use of bicycles, tricycles, motor cycles, and other like horseless vehicles, for a term not exceeding fifty years. In incorporated cities no franchise must be granted for the purpose herein expressed, unless the consent in writing of the owners of a majority of the frontage upon the road or street along which said path or road is sought to be constructed, is first had and obtained, and filed with such legislative or governing body.

An Act to regulate the operation of motor vehicles on public highways, and making an appropriation for the purpose of carrying out the objects of this act.

[Approved March 22, 1905; St. 1905, c. 612.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

§ 1. [*Definitions—"Motor Vehicle"—"Public Highways"—"Closely Built up"—"Local Authorities—Chauffeur"*].—The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) "motor vehicle" shall include all vehicles propelled by any power other than muscular power, provided that nothing herein contained shall, except the provisions of subdivisions three, four and five of section three and subdivision one of section four of this act, apply to motor cycles, motor bicycles, traction engines or road rollers; (2) "public highways" shall include any highway, county road, state road, public street, avenue, alley, park, parkway, driveway or public place in any county, or incorporated city and county, city or town; (3) "closely built up" shall mean (a) the territory of any county or incorporated city and county, city or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of any county or incorporated city and county, city or town contiguous to a public highway not devoted to business, where for not less than one quarter of a mile the dwelling-houses on such highway average less than one hundred feet apart, provided that the local authorities having charge of such highway shall have placed conspicuously thereon at both ends of such closely built up section signs of sufficient size to be easily readable by a person using the highway, bearing the words "Slow down to — miles," inserting in the blank space the number of miles to which the speed is to be reduced, and also an arrow pointing in the direction where the speed is to be reduced; (4) "local authorities" shall include all boards of supervisors, trustees or councils, committees and other public officials of counties, or incorporated cities and counties, cities or towns; (5) "chauffeur" shall mean any person operating a motor vehicle as mechanic, employee, or for hire.

§§ 2, 3, 4. [Superseded by Act of March 23, 1907.]

§ 5. Subdiv. 1. [*Registration of Chauffeurs—Application—Fee*].—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the secretary of state, on a blank to be supplied by such secretary, a statement which shall include his name and address and the trade name and motive power of the motor vehicle or vehicles he is able to operate, and shall pay a registration fee of two dollars.

Subdiv. 2. [*Record of Registration—Assignment of Number*].—The secretary of state shall thereupon file such statement in his office, register such chauffeur in a book or index to be kept for that purpose, and assign him a number.

Subdiv. 3. [*Chauffeur's Badge—Form—Display*].—The secretary of state shall forthwith, upon such registration and without other fee, in-

sure and deliver to such chauffeur a badge of aluminum or other suitable metal which shall be oval in form, and the greater diameter of which shall not be more than two inches, and such badge shall have stamped thereon the words: "Registered chauffeur No. —, State of California," with the registration number inserted therein; which badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways.

Subdiv. 4. [*Transfer of Badge—Fictitious Badge*].—No chauffeur, having registered as herein provided, shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle wear any badge belonging to another person, or a fictitious badge.

Subdiv. 5. [*Driving Conditioned upon Compliance Herewith*].—No person shall operate a motor vehicle as a chauffeur upon the public highways after thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this section.

§ 6. [Superseded by Act of March 23, 1907.]

An Act to amend an act entitled "An Act to regulate the operation of motor vehicles on public highways, and making an appropriation for the purpose of carrying out the objects of this act," approved March 22, 1905, by amending sections 2, 3, 4 and 6 of said act, and by adding thereto a new section to be numbered 8a.

[Approved March 23, 1907; St. 1907, c. 500.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

§ 1. [*Act of March 22, 1905, § 2, Amended*].—Section 2 of an act entitled "An Act to regulate the operation of motor vehicles on public highways, and making an appropriation for the purpose of carrying out the object of this act," approved March 22, 1905, is hereby amended to read as follows:

§ 2. Subdiv. 1. [*Registration of Vehicles—Application—Fee*].—Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered including the name of the maker, factory number, style of vehicle and motor power on a blank to be prepared and furnished by such secretary of state for that purpose. The filing fee shall be two dollars.

Subdiv. 2. [*Record of Registration—Assignment of Number*].—The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book or index kept for the purpose, and assign it a distinctive number.

Subdiv. 3. [*Seal—Form—Display*].—The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form approximately two inches in diameter, and have stamped thereon the words "Registered motor vehicle, No. —, State of California," with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle, to which such number has been assigned.

Subdiv. 4. [*Previous Registration—Issuance of Seal—Fee—Sale of Vehicle*].—If the vehicle has been previously registered, the certificate issued thereon shall be returned to the secretary of state and in lieu thereof such secretary shall issue to said owner a registration seal containing the number of such previous registration upon payment of a fee of one dollar. Upon the sale of a motor vehicle, the vendor, except a manufacturer or dealer, shall within ten days, return to the secretary of state the registration seal affixed to such vehicle.

Subdiv. 5. [*Display of Number—Mode*].—Every motor vehicle shall also at all times have the number assigned to it displayed on the back of such vehicle in such a manner as to be plainly visible, the numbers to be in Arabic numerals, black on white background, each not less than three inches in height, and each stroke to be of a width not less than half an inch, and also as a part of such number of the abbreviated name of the state in black on white ground, such letters to be not less than one inch in height.

Subdiv. 6. [*Registration by Manufacturers and Dealers—Seals*].—A manufacturer of or dealer in motor vehicles shall register one vehicle of each style or type manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of an additional fee of fifty cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with subdivisions one, three, five and eight of this section, until such vehicle shall be sold or let for hire. Nothing in this subdivision shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

Subdiv. 7. [*Display of Another or Fictitious Number*].—No motor vehicle shall be used or operated upon the public highways after this

act takes effect which shall display thereon a registration seal or number belonging to any other vehicle, or a fictitious registration seal or number.

Subdiv. 8. [*Use of Vehicles Conditioned upon Compliance Herewith—Recently Purchased Vehicles*].—No motor vehicle shall be used or operated on the public highway after this act takes effect, unless the owner shall have complied in all respects with this section, except that any person purchasing a motor vehicle from the manufacturer, dealer or other person after this act goes into effect shall be allowed to operate such motor vehicle upon the public highways for a period of five days after the purchase and delivery thereof, provided that during such period such motor vehicle shall bear the registration number and seal of the previous owner under which it was operated or might have been operated by him.

Subdiv. 9. [*Nonresidents—Vehicles Registered Elsewhere*].—The provisions of this section shall not apply to motor vehicles owned by nonresidents of this state and only temporarily within this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as in this section provided.

§ 2. [*Act of March 22, 1905, § 3, Amended*].—Section 3 of said act is hereby amended to read as follows:

§ 3. Subdiv. 1. [*Speed—Regard to Traffic—Closely Built up Sections*].—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or the safety of any property; or in any event on any public highway where the territory contiguous thereto is closely built up, at a greater rate than one mile in six minutes, or elsewhere in any incorporated city and county, city or town, at a greater rate than one mile in four minutes, or elsewhere outside of any incorporated city and county, city or town, at a greater rate than one mile in three minutes; subject, however, to the other provisions of this act.

Subdiv. 2. [*Speed at Bridges, Curves, Hills, Crossways, etc.*].—Upon approaching a bridge, dam, sharp curve, or steep descent, and also in traversing such bridge, dam, curve or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed not exceeding one mile in fifteen minutes, and upon approaching a crossing of intersecting highways at a speed not greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

Subdiv. 3. [*Approaching Pedestrians or Horses—Warning—Care*].—Upon approaching a person walking in the roadway of a public highway, or a horse or horses, or other live stock, being ridden, led or driven thereon, a person operating a motor vehicle shall give reasonable warning of its approach, and use every reasonable precaution to insure the safety of such person or animal, and in the case of horses or other live stock, to prevent frightening the same.

Subdiv. 4. [*Signal to Stop—Care—Stopping Motor*].—A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding, leading or driving a restive horse or horses, or other live stock, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and, if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided, that, in case such horse or animal appears badly frightened or the person operating such motor vehicle is requested to do so, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure safety to others.

Subdiv. 5. [*Stopping in Case of Accident—Disclosing Identity*].—In case of accident or injury to a person or property on the public highways, due to the operation thereon of a motor vehicle, the person operating such vehicle shall stop, and, upon request of a person injured, or any person present, give such person his name and address, and, if not the owner, the name and address of such owner.

Subdiv. 6. [*Races—Setting Aside Highway*].—Local authorities may, notwithstanding the other provisions of this section, set aside for a given time a specified public highway for speed tests or races, to be conducted under proper restrictions for the safety of the public.

§ 3. [*Act of March 22, 1905, § 4, amended*].—Section 4 of this act is hereby amended to read as follows:

§ 4. Subdiv. 1. [*Keeping to Right on Meeting, Left on Passing—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other live stock, or any other vehicles, the person so operating such motor vehicle shall reasonably turn the same to the right of the centre of such highway so as to pass without interference. Any such person so operating a motor vehicle, shall, on overtaking any such horse, live stock or other vehicle, pass on the left side thereof, and the rider or driver of such horse, live stock or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person so operating a motor vehicle

shall at the intersection of public highways, keep to the right of the intersection of the centres of such highways when turning to the right and pass to the right of such intersection when turning to the left. Nothing in this subdivision shall, however, be construed as limiting the meaning or effect of the provisions of section three of this act.

Subdiv. 2. [*Equipment—Brakes—Signaling Device—Lights*].—Every motor vehicle, while in use on a public highway shall be provided with good and efficient brakes, and also with suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one hour after sunset to one hour before sunrise, two lamps showing white lights visible within a reasonable distance in the direction towards which such vehicle is proceeding, showing the registered number of the vehicle in separate Arabic numerals, not less than one inch in height and each stroke to be not less than one quarter of an inch in width, and also a red light visible in the reverse direction.

Subdiv. 3. [*Local Regulations—Speed—Signs*].—Subject to the provisions of this act, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways, or excluding or prohibiting any motor vehicle whose owner has complied with section two of this act from the free use of such highways, except such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or except as herein provided, in any way affecting the registration or numbering of motor vehicles or prescribing a slower rate of speed than herein specified at which such vehicles may be operated, or the use of the public highways, contrary or inconsistent with the provisions of this act; and all such ordinances, rules or regulations now in force are hereby declared to be of no validity or effect; provided, however, that the local authorities of incorporated cities and counties, cities and towns may limit by ordinance, rule or regulation hereafter adopted the speed of motor vehicles on the public highways, on condition that such ordinance, rule or regulation shall also fix the same speed limitation for all other vehicles, such speed limitation not to be in any case less than one mile in six minutes and on further condition that such incorporated city and county, city or town shall also have placed conspicuously on each main public highway where the boundary of such municipality crosses the same and on every main highway where the rate of speed changes, signs of sufficient size to be easily readable by persons using the highway, bearing the words "slow down to ——— miles" (the rate being inserted) and also an arrow pointing in the direction where the speed is to be reduced or changed, and also on further condition that such ordinance, rule or regulation shall fix the penalties for violation thereof similar to and no greater than those

fixed by such local authorities for violation of speed limitation by any other vehicles than motor vehicles, which penalties shall during the existence of the ordinance, rule or regulation supersede those specified in section six of this act, and provided further that nothing in this act contained shall be construed as limiting the power of local authorities to make, enforce and maintain further ordinances, rules or regulations affecting motor vehicles which are offered to the public for hire.

Subdiv. 4. [*Local Regulations—Speed in Parks—Signs—Exclusion of Vehicles from Cemeteries*].—Local authorities may, notwithstanding the provisions of this act, make, enforce and maintain such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated in any public park or parkways, but in that event, must be [by] signs at each entrance of such park and along such parkway, conspicuously indicate the rate of speed permitted or required, and may exclude motor vehicles from any cemetery or grounds used for burial of the dead.

Subdiv. 5. [*Civil Actions Not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil suit for damages by reason of injuries to person or property resulting from the negligent use of the highways by a motor vehicle or its owner or his employee or agent.

§ 4. [*Act of March 22, 1905, § 6, amended*].—Section 6 of said act is hereby amended to read as follows:

§ 6. [*Penalties—Second and Third Offenses*].—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days, or both, for the first offense; and punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding thirty days, or both, for a second offense; or punishable by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars or imprisonment not exceeding thirty days, or both, for a third or subsequent offense.

§ 5. [*Act of March 22, 1905, additional § 8a*].—A new section is hereby added to said act, to be numbered 8a, and to read as follows:

§ 8a. [*Motor Vehicle Department—Personnel*].—For the purpose of carrying out the purposes of this act, and the act of which this is amendatory, the secretary of state may appoint a chief clerk and cashier of the motor vehicle department, in the office of the secretary of state, and one other clerk.

§ 6. [*Time of Taking Effect*].—This act shall take effect immediately.

An Act to add a new section to the Penal Code of California to be numbered four hundred and ninety-nine c, relating to the taking, hiring, running, driving or using of an automobile, or taking or removing therefrom any part thereof, by the owner, or the manager of an automobile garage, his agent or employee, or any other person, without the consent of the owner of such automobile, and providing the punishment for a violation thereof:

[Approved March 20, 1909; St. 1909, c. 358.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

§ 1. [*New Section of Penal Code*].—A new section is hereby added to the Penal Code of California to be numbered four hundred and ninety-nine c, and to read as follows:

499c. [*Taking Vehicle Without Authority—Penalty*].—Every owner or manager of an automobile garage, or any agent or employee of such owner or manager, or any other person, having the care, custody or possession of any automobile, who takes, hires, runs, drives or uses such automobile, or who takes or removes therefrom any part thereof, without the owner's consent, is punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

COLORADO.

ACT OF APRIL 23, 1909.

- § 1. Definition of "Automobile."
- 2. Tampering with or Starting Vehicle—Penalty.
- 3. Jurisdiction of Cases Arising Hereunder.
- 4. Time of Taking Effect.

An Act to protect automobile owners and to make certain acts misdemeanors and to provide a punishment therefor.

[Act approved April 23, 1909; Laws 1909, c. 137.]

Be it enacted by the General Assembly of the State of Colorado:

§ 1. [*Definition of "Automobile"*].—For the purpose of this act the term "automobile" shall be held to embrace and mean and is hereby defined to mean any vehicle drawn by motive power other than animal power or motive supplied solely by the muscular exertion of a human being.

§ 2. [*Tampering with or Starting Vehicle—Penalty*].—Any person or persons who shall tamper with, or who shall enter upon and start in motion, or aid and abet another in so doing, any automobile without the knowledge and consent of the owner thereof or person or persons or corporation as the case may be, operating such automobile, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished for each offense by a fine of not less than fifty (\$50) dollars, nor more than three hundred (\$300) dollars, or by imprisonment in the county jail for a period not less than thirty (30) days, nor more than ninety (90) days, or both such fine and imprisonment.

§ 3. [*Jurisdiction of Cases Arising Hereunder*].—Justices of the peace in their respective jurisdictions shall have power to hear and determine all cases arising under the provisions of this act.

§ 4. [*Time of Taking Effect*].—In the opinion of the General Assembly an emergency exists; therefore, this act shall take effect and be enforced from and after its passage.

CONNECTICUT.

ACT OF APRIL 23, 1903.

Ferry Tolls for Motor Vehicles.

ACT OF JULY 6, 1905.

[*Compare Act of Aug. 10, 1909, §§ 12, 18.*]

- § 1. Definition of Term "Vehicle."
- 2. Keeping to Right on Meeting, Left on Passing—Rule at Crossways.
- 3. Noncompliance with Act—Collision—Treble Damages.
- 4. Vehicle Hired, Lent, or Entrusted to Another—Liability of Owner.
- 5. Penalty.
- 6. Acts Repealed Hereby.

ACT OF AUG. 10, 1909.

- § 1. Definitions—"Dealer"—"Motor Cycle"—"Motor Vehicles," etc.
- 2. Registration—Application—Fee—Duration, etc.
- 3. Registration by Dealers, Liverymen and Manufacturers.
- 4. Display of Number Plates—Loss of Plates.
- 5. Motor Cycles—Display of Number—Mufflers.
- 6. Equipment—Brakes—Signaling Device—Lights—Mufflers.

- § 7. Operator's License—Age of Licensees—Number.
- 10. Nonresidents Touring in State—Violations of Act.
- 11. Reckless or Immoderate Driving.
- 12. Approaching Pedestrians on Horses—Speed—Care—Stopping—Duty at Crossways.
- 13. Speed—In Cities—at Crossways—Passing Street Cars.
- 14. Speed—Local Regulations.
- 15. Using Vehicle without Permission.
- 16. Penalties—Fine—Imprisonment—No Recovery in Case of Accident.
- 17. Tampering with Vehicle.
- 18. Penalties—Revocation of License and Registration.
- 19. Penalties—Refusal to Disclose Identity, etc.
- 20. Jurisdiction of Justice of the Peace—Indorsement of License.
- 21. Record of Convictions—Reports to Secretary.
- 22. Appeals from Decisions of Secretary—Procedure.
- 23. Disposition of Fines—Expenditure.
- 24. Acts Repealed Hereby.
- 25. Time of Taking Effect.

ACT OF AUG. 26, 1909.

- § 1. Fees for Registration and License.
- 2. Suspension or Revocation of Certificate of Registration or License of Operator—Jurisdiction and Powers of Secretary.
- 3. Time of Taking Effect.

An Act relating to the fares and tolls for power vehicles.

[Approved April 23, 1903; Laws 1903, c. 38.]

Be it enacted by the Senate and House of Representatives in general assembly convened:

[*Ferry Tolls for Motor Vehicles*]. — For power vehicles except motor cycles, the fares and tolls of the several ferries and toll bridges shall be as follows: For power vehicles with not more than one seat, fifty per centum more than the fares and tolls for a four-wheeled carriage and one horse; for power vehicles with more than one seat, fifty per centum more than for a four-wheeled carriage and two horses; and for each additional person accompanying such power vehicles the same fare shall be charged as for additional passengers in carriages.

An act concerning the meeting and passing of persons and vehicles on public highways.

[Act approved July 6, 1905; Laws 1905, c. 216.]

Be it enacted by the Senate and House of Representatives in general assembly convened:

§ 1. [*Definition of Term "Vehicle"*].—Whenever the term "vehicle" is used in this act it shall include bicycles, tricycles, motor bicycles, motor vehicles of all kinds, vehicles drawn by horses or other animals, and all other vehicles used for the carriage of persons or goods, no matter how propelled, excepting only such vehicles as are run only upon rails or tracks.

§ 2. [*Keeping to Right on Meeting, Left on Passing—Rule at Cross-ways*].—Whenever a person walking in the traveled portion of a public highway, or a person riding, driving, or leading a horse or other animal therein, or driving or operating a vehicle therein, shall meet another person thus walking or thus riding, driving, or leading a horse or other animal, or thus driving or operating a vehicle, if such persons are moving in opposite directions each shall slacken his pace, if necessary, and seasonably turn to the right so as to give half of the traveled road, if practicable, and a fair and equal opportunity to pass, to the other; or, if they are moving in the same direction, the person overtaking shall pass on the left side of the person overtaken, and the person overtaken shall, as soon as practicable, turn to the right so as to give half of the traveled road and a free passage on the left, to the other. Any such person shall, at the intersection of public highways, keep to the right of the intersection of the centres of such highways when turning to the right, and pass to the right of such intersection when turning to the left.

§ 3. [*Noncompliance with Act—Collision—Treble Damages*].—Every such person who shall, by neglecting to conform to the provisions of section two of this act, cause any injury to the person or property of another, or shall negligently collide with another, thereby causing such injury, shall pay to the party injured treble damages and costs.

§ 4. [*Vehicle Hired, Lent or Entrusted to Another—Liability of Owner*].—If the owner of any horse or other animal, or of any vehicle, shall entrust such animal or vehicle to his agent, servant, or employee, to be ridden, led, driven or operated by such agent, servant, or employee upon the public highways of this state, or shall rent or loan the same to an incompetent and inexperienced person to be thus ridden, led, driven, or operated, and such agent, servant, or employee, while in the execution of such owner's business within the scope of his authority, or such incompetent and inexperienced person, as a result of such incompetency and inexperience, shall, by neglecting to conform to the provisions of section two of this act, cause any injury to the person or

property of another, or shall negligently collide with another, thereby causing such injury, such owner shall pay to the party injured his actual damages and costs; but in every case the party injured shall elect whether he shall proceed against such owner under the provisions of this section or against the person actually causing such injury under the provisions of section three of this act.

§ 5. [*Penalty*].—Any person violating any of the provisions of section two of this act shall be fined not more than fifty dollars.

§ 6. [*Acts Repealed Hereby*].—Sections 2035, 2036, 2037, and 2038 of the general statutes and all other acts and parts of acts inconsistent herewith are hereby repealed.

An Act concerning the registration, numbering, use, and speed of motor vehicles and the licensing of operators of such vehicles.

[Act approved Aug. 10, 1909; Laws 1909, c. 211.]

Be it enacted by the Senate and House of Representatives in general assembly convened:

§ 1. [*Definitions — "Dealer" — "Liveryman" — "Intersecting Highway" — "Motor Cycle" — "Motor Vehicles" — "Nonresident," etc.*].—Terms used in this chapter shall be construed as follows, unless other meaning is clearly apparent from language or context, or unless such construction is inconsistent with the manifest intention of the legislature: "Dealer" shall include every person who is engaged in the business of buying, selling, or exchanging motor vehicles and every person who maintains for hire not more than two motor vehicles. "Liveryman" shall include every person who, whether engaged in buying, selling, or exchanging motor vehicles or not, maintains for hire more than two motor vehicles or who maintains for hire one or more taxicabs. "Intersecting highway" shall mean any highway which joins another at an angle, whether or not it crosses the other. "Motor cycle" shall apply only to motor vehicles having but two wheels in contact with the ground. "Motor vehicles" when used in this act, except when otherwise expressly provided, shall include all vehicles propelled by any power other than muscular, except road rollers, street sprinklers, fire engines and fire department apparatus, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks. "Nonresident" shall apply to residents of states or countries who have no regular place of abode or business in this State for a period of more than three months in the calendar year. "Number plate" shall mean the sign or marker furnished by the secretary of state on which is displayed the register number or mark of a motor vehicle assigned to such motor vehicle by said secretary. "Operator" shall mean any person who operates a

motor vehicle. "Person," wherever used in connection with the registration of a motor vehicle, shall include any corporation, association, copartnership, company, firm, or other aggregation of individuals which owns or controls any such vehicle as owner, or for the purpose of sale, or for renting as agent, salesman, or otherwise. "Police officer" or "officer" shall include any constable or other officer authorized to make arrest or to serve process, provided he is in uniform or displays his badge of office. "Registered number" shall apply to the number or mark assigned by said secretary to a motor vehicle, whether or not such number or mark includes a letter or letters. "Secretary" shall include the secretary of state and the supervisor of motor vehicles.

§ 2. [*Registration—Application—Fee—Duration, etc.*].—Every owner of one or more motor vehicles shall file annually in the office of the secretary, on a blank furnished by said secretary, a statement of his name, residence, postoffice address, and a description of each motor vehicle owned or controlled by him, including the name of the maker, the number, if any, affixed by the maker, the character of the motor power, and such other information as shall be required by said secretary; and said secretary, or his duly authorized agent, shall register such motor vehicle, assigning to it a distinguishing number or mark, and shall thereupon issue to the owner thereof a certificate of registration which shall contain the amount of the motor power of such motor vehicle stated in figures of horse power, such horse power, in the case of internal combustion engines, to be determined in accordance with the formula adopted by the Association of Licensed Automobile Manufacturers, and in the case of steam and electric cars and motor vehicles, the amount of such horse power to be taken as advertised by the maker thereof, and if such motor vehicle has two ratings of horse power, the registration to be based upon the higher rating, the name, place of residence, and postoffice address of the owner, and the number or mark assigned to such motor vehicle, and shall be in such form and contain such further information as said secretary may determine. Such certificate shall at all times be carried upon such motor vehicle and shall be subject to examination upon demand by any proper officer. An applicant for the registration of a motor vehicle who does not file his application therefor until after the first day of June in any year shall be entitled to a pro rata reduction in the fee for such registration calculated to the first day of the month in which the application is made. Upon the transfer of ownership of any motor vehicle its registration shall expire, and the person in whose name such vehicle is registered shall return forthwith the certificate of registration to the secretary with a written notice containing the date of such transfer of ownership, and the name, place of residence, and postoffice address of the new owner. A person who transfers to another the ownership of a

registered motor vehicle owned by him, upon the filing of a new application and upon the payment of the proper fee, may have registered in his name another motor vehicle for the remainder of the calendar year, provided the horse power of such motor vehicle is the same or less than that of the motor vehicle next preceding registered by him; but if the horse power of the motor vehicle is greater than that of the motor vehicle next preceding registered by him, the applicant shall pay, in addition to said fee, the difference between the fee paid by him for the motor vehicle next preceding registered by him and the fee for the registration of the motor vehicle of the higher horse power. The registration of every motor vehicle shall expire at midnight on the 31st day of December in each year.

§ 3. [*Registration by Dealers, Liverymen and Manufacturers*].—Every dealer, liveryman, or manufacturer of motor vehicles may, instead of registering each motor vehicle owned or controlled by him, make application to said secretary for a general distinguishing number or mark, and the secretary may, if satisfied as to the facts stated in said application, issue to the applicant a certificate of registration containing the name, place of residence, and business address of the applicant, and the general distinguishing number or mark assigned to him, and made in such form and containing such further information as said secretary may determine, and every motor vehicle owned or controlled by such manufacturer, dealer, or liveryman shall, until sold or loaned for a period of more than five successive days, be regarded as registered under, and have assigned to it, such distinguishing number or mark. Manufacturers, dealers, or liverymen shall not be required to carry such certificates upon the vehicles registered under the provisions of this section, but every person operating a motor vehicle registered under the provisions of this section shall display on such vehicle, in such manner as said secretary may prescribe, the operator's license number assigned to such person. The registration of every motor vehicle registered under the provisions of this section shall expire at midnight on the thirty-first day of December in each year.

§ 4. [*Display of Number Plates—Loss of Plates*].—Every motor vehicle, except motor cycles, shall at all times while in use or operation upon the public highways of this state, have displayed in a conspicuous place, at the front and rear, the registered number plates or markers furnished by the secretary. Said plates shall be in such form as said secretary may determine, shall bear the initial letter of the state, and the figures of the registered number thereon shall be not less than four inches high and each stroke not less than five-eighths of an inch wide, and each digit thereof shall occupy a space of not less than three and one-half inches in width. Said secretary shall furnish annually, without charge, not more than one pair of number plates for each individual

registered owner, and not more than six pairs of plates for each registered manufacturer, liveryman, or dealer, upon application therefor. Such number plates, upon such motor vehicle, shall, at all times, be entirely unobscured, and the registered number and letters thereon shall, at all times, be plainly legible. The rear number plates shall be horizontal, shall be so fastened as not to swing; the lower edge thereof shall be at least eighteen inches from the ground, and, during the times when a motor vehicle is required to display lights, said rear registered number shall be so illuminated as to be legible at a distance of sixty feet. Not more than one set of number plates and one operator's license number plate shall be displayed on any motor vehicle in operation on the public highways of this state. If any number plate supplied by the secretary is lost or mutilated, or if the register number thereon becomes illegible, the owner or person in control of the motor vehicle for which such number plate was furnished shall immediately place a temporary number plate bearing his register number upon such motor vehicle; provided, however, that such temporary number plate and the register number thereon shall conform to the regular number plate and be displayed as nearly as possible as herein provided for said regular number plates; and shall, within twenty-four hours after such loss or mutilation of his number plate, as aforesaid, notify the secretary of the same and apply for a new number plate, and thereupon said secretary shall supply a new plate upon the payment of the fee therefor, as hereinafter provided.

§ 5. [*Motor Cycles—Display of Number—Mufflers*].—Every motor cycle shall, at all times while being used or operated upon the public highways of this state, have displayed thereon the initial letter of this state and the number or mark assigned to such motor cycle, such letter and figures to be at least one inch high and either painted on such motor cycle or displayed on a plate or marker securely fastened thereto, and no motor cycle shall be operated with its muffler opened.

§ 6. [*Equipment—Brakes—Signaling Device—Lights—Mufflers*].—Every motor vehicle of more than ten horse power, while in use on the public highways of this state, shall be provided with at least two brakes, powerful in action and separated from each other, of which one brake shall act directly on the driving wheels or on parts of the mechanism which are firmly connected with said wheels. Either one of the two brakes shall be sufficient to stop the motor vehicle within a reasonable distance. One of the two brakes shall be so arranged as to be operated with the foot; provided, however, that, on motor vehicles not exceeding ten horse power, one brake shall be deemed to be sufficient. Every motor cycle shall be provided with at least one brake, which brake may be operated by hand. Every motor vehicle so operated shall be provided with a suitable bell or horn, and shall, during the period

from one-half hour after sunset to one-half hour before sunrise, display at least two white lights on the forward part of said vehicle, and every motor cycle so operated, at least one white light, which lights shall be visible not less than two hundred feet in the direction toward which the vehicle is proceeding; every motor vehicle, except motor cycles, so operated, shall have a rear light so placed as to show a red light from behind, and a white light so arranged as to illuminate the rear number plate in accordance with the provisions of section four. No motor vehicle shall be operated upon the public highways within the limits of any city or borough of this state at any time, and no motor vehicle shall be operated on any other public highway between the hours of nine o'clock in the evening and six o'clock in the morning, unless the engine of such vehicle shall be fully and completely muffled while so operated, nor shall the operator thereof use or operate thereon any other device for signal except a horn, air or gas blown whistle, or bell, excepting fire apparatus.

§ 7. [*Operator's License—Age of Licensees—Number*].—No person shall operate a motor vehicle upon the public highways of this state until he shall have obtained from the secretary a license for that purpose, but no such license shall be issued until said secretary, or his authorized agent, is satisfied that the applicant is a proper person to receive it. Nothing herein contained shall prevent the operating of a motor vehicle by an unlicensed person sixteen years of age or more, other than a person whose application has been refused or whose license has been suspended or revoked, if accompanied by a licensed operator, which licensed operator shall be personally liable for any violations of the provisions of this act. Licenses for operating motor vehicles shall be issued by said secretary, but no license shall be issued to any person under the age of eighteen years. Applications for licenses shall be made upon blanks furnished by said secretary, and such application blanks shall be in such form and contain such provisions, not inconsistent with this act, as said secretary may determine. A number shall be assigned to each license, and a proper record of all applications for licenses and licenses issued shall be kept by said secretary at his office, and shall be open to public inspection. Each license shall state the name, place of residence, and postoffice address of the licensee and the number assigned to him, and such provisions, not inconsistent with this act, as said secretary may determine. Every person licensed to operate motor vehicles as aforesaid shall endorse his usual signature on the margin of the license, in a space provided for the purpose, immediately upon the receipt of said license, and such license shall not be valid until so endorsed. Said licenses shall expire at midnight on the last day of February in each year. Such a license shall, at all times, be carried by the licensee when he is operating a motor vehicle

upon the highways of this state, and shall be subject to examination upon demand by any proper officer.

§ 8. [Superseded by Act of Aug. 26, 1909.]

§ 9. [Superseded by Act of Aug. 26, 1909.]

§ 10. [*Nonresidents Touring in State—Violations of Act*].—Any nonresident of this state who has complied with the laws of the state within which he resides, relative to motor vehicles and the operation thereof, may use the highways of this state not exceeding ten days in any one year without complying with the provisions of this act relative to the registration of motor vehicles and the licensing of operators, but every such person shall cause to be displayed on his motor vehicle the distinguishing number or mark of the state within which he resides, and said number or mark shall be displayed upon two plates substantially as provided in section four of this act; provided, however, that if any nonresident be convicted of violating any provision of section eleven, twelve, eighteen, or nineteen hereof he shall thereafter be subject to and required to comply with all the provisions of this act.

§ 11. [*Reckless or Immoderate Driving*].—No person shall operate a motor vehicle on the public highways of this state recklessly or at a rate of speed greater than is reasonable and proper, having regard to the width, traffic, and use of the highway, or so as to endanger the property or the life or limb of any person.

§ 12. [*Approaching Pedestrians or Horses—Speed—Care—Stopping—Duty at Crossways*].—Upon approaching any person walking in the traveled portion of any highway, or a horse or any other draft animal being led, ridden, or driven therein, and in passing such person or such horse or other draft animal, the person operating a motor vehicle shall have the same under control and shall reduce its speed when reasonable care requires. If such horse or other draft animal being so led, ridden, or driven, shall appear to be frightened, and if the person in charge thereof shall signal so to do, the person operating such motor vehicle shall bring the same immediately to a stop, and if traveling in the opposite direction shall remain stationary so long as may be reasonable to allow such horse or other animal to pass, or if traveling in the same direction shall use reasonable caution in thereafter passing such horse or other animal. Upon approaching an intersecting highway, or a curve or a corner of a highway, every person operating a motor vehicle shall slow down when reasonable care requires and shall give a timely signal with his bell or horn and keep to the right of the intersection of the centre of both highways when turning to the right, and pass to the right of the intersection of the centres of said highways before turning to the left.

§ 13. [*Speed—In Cities—At Crossways—Passing Street Cars*].—If the rate of speed of a motor vehicle operated on a public highway of

this state exceeds twenty-five miles an hour for the distance of one-eighth of a mile, such rate of speed shall be prima facie evidence that the person operating such motor vehicle is operating the same at a rate of speed greater than is reasonable and proper, and in violation of the provisions of section eleven of this act. If the rate of speed of a motor vehicle, excepting within the limits of an incorporated city, operated on the public highways of this state, where the operator's view of the road and traffic is obstructed, when approaching a crossing or intersecting public highway, or when traversing a bridge, or a sharp turn or steep descent, or a curve in a highway, exceeds ten miles an hour, such rate of speed shall be prima facie evidence that the person operating such motor vehicle is operating the same at a rate of speed greater than is reasonable and proper, and in violation of the provisions of section eleven of this act. If the rate of speed of a motor vehicle operated upon the public highways of this state in passing any street railway car that is stationary or about to stop, on the same side of the car on which passengers are ordinarily received or discharged, exceeds three miles an hour, such rate of speed shall be prima facie evidence that the person operating such motor vehicle is operating the same at a rate of speed greater than is reasonable and proper, and in violation of the provisions of section eleven of this act.

§ 14. [*Speed—Local Regulations*].—No city, town, or borough shall have power to make any ordinance, by-law, or resolution respecting the speed of motor vehicles, and no ordinance, by-law, or resolution made by any city, town, or borough in respect to the speed of motor vehicles shall have any force or effect; provided, however, that power given to any town, city, or borough to regulate shows, processions, assemblages, or parades in streets and public places and to regulate the use of public parks, and all ordinances, by-laws, or regulations which may have been or which may be enacted in pursuance of such powers, shall remain in full force and effect.

§ 15. [*Using Vehicle without Permission*].—No person shall operate or use any motor vehicle upon the public highways of this state without the permission of the owner.

§ 16. [*Penalties—Fine—Imprisonment—No Recovery in Case of Accident*].—Any person operating a motor vehicle upon the highways of this state who fails to comply with any of the provisions of section two, three, six, or seven of this act, or who violates any provision of section seventeen, or after his license to operate has been suspended or revoked, and any person convicted of operating or causing or permitting any other person to operate a motor vehicle after the certificate of registration for such vehicle has been suspended or revoked, and any person who attaches or permits to be attached to a motor vehicle a number plate assigned by the secretary to another vehicle, or who

obscures or allows to be obscured the figures on any number plate attached to any motor vehicle, or who fails to display on a motor vehicle the number plate and the register number duly issued therefor, shall be fined not more than one hundred dollars, or imprisoned not more than ten days, or both. No recovery shall be had in the courts of this state, by the owner, operator, or passenger of a motor vehicle which has not been registered in accordance with section two or section three of this act, for any injury to person or property received by reason of the operation of said motor vehicle in or upon the public highways of this state, unless said motor vehicle is the property of a nonresident and is within the provisions of section ten of this act. Nor shall such recovery be had if the motor vehicle be registered but is being operated by an unlicensed person in violation of section seven of this act.

§ 17. [*Tampering with Vehicle*].—No person shall interfere or tamper with a motor vehicle without permission of the owner.

§ 18. [*Penalties—Revocation of License and Registration*].—Any person operating a motor vehicle upon the highways of this state in violation of section eleven or twelve, or while under the influence of intoxicating liquor, or upon a bet, wager, or in a race, or who operates a motor vehicle for the purpose of making a record and thereby violates any provision of section eleven or twelve of this act, or who knowingly goes away without stopping and making himself known after causing injury to any person or property, shall be fined not more than five hundred dollars, or imprisoned not more than one year, or both, and if any person be convicted the second time of operating a motor vehicle while under the influence of intoxicating liquor, or for any violation of section fifteen of this act, he shall be imprisoned for a term of not less than six months and not more than two years. A conviction of any offense involving a violation of this section shall be reported forthwith by the clerk of the court or justice of the peace to the secretary of the state, who, upon a second or subsequent conviction, shall revoke immediately the license of the person so convicted. If it appears by the records of said secretary that the person so convicted a second time is the owner of a motor vehicle, or the employee of an owner of a motor vehicle employed by such owner when the first conviction was had, said secretary shall revoke the certificate of registration of such owner, or of the employer, or of the employee so convicted. Whenever any person convicted of any violation of this section appeals, said secretary shall suspend, forthwith, the license of the person so convicted, and shall order the license delivered to him, and shall not reissue the same unless such person is acquitted upon such appeal, or unless said secretary, in his discretion, after an investigation or upon a hearing, decides to reissue it. Whenever any license or certificate shall have been revoked under the provisions of

this section, no new license or certificate shall be issued by said secretary to such person until after thirty days from the day of such final conviction, nor thereafter except in the discretion of said secretary, and such vehicle or vehicles shall not be registered in the name of any other person during said thirty days. A fee of one dollar shall be allowed to the clerk of the court or the justice of the peace reporting a conviction under the provisions of this section, said fee to be taxed as a part of the costs in the case.

§ 19. [*Penalties—Refusal to Disclose Identity, etc.*].—Any person who, while operating or in charge of a motor vehicle, shall refuse, when requested by an officer, to give his name and address or the name and address of the owner of such motor vehicle, or who shall give a false name or address, or who shall refuse or neglect to stop when signaled to stop by any officer, or who refuses on demand of such officer to produce his license to operate such vehicle, or his certificate of registration, or to permit such officer to take the license or certificate in hand for the purpose of examination, or who refuses on demand of such officer to sign his name in the presence of such officer, and any person who, on the demand of an officer acting under instructions from the secretary, without a reasonable excuse, fails to deliver his license to operate motor vehicles, or the certificate of registration of any motor vehicle operated or owned by him, or the number plates furnished by the secretary for such motor vehicle, or who refuses or neglects to produce his license when requested by a court or trial justice, shall be fined not more than one hundred dollars.

§ 20. [*Jurisdiction of Justice of Peace—Indorsement of License*].—In all complaints for the violation of any provision of this act, the justice of the peace before whom the same may be tried shall have jurisdiction and power to render judgment and issue process of execution and mittimus thereon where such fine or penalty imposed shall not exceed two hundred dollars, or imprisonment for thirty days, or both, but the defendant shall have the right of appeal as in other cases. The justice of the peace or court before whom a final conviction shall be had under the provisions of this act shall indorse upon the license of the person convicted the dates and particulars of such conviction.

§ 21. [*Record of Convictions—Reports to Secretary*].—A full record shall be kept by every court or justice of the peace of every case in which a person is convicted of any offense involving a violation of any of the provisions of this act, and a certified abstract of such record, the expense of which shall be taxable as costs in such case, shall, within two days after the date of such conviction, be transmitted by the clerk of such court or the justice of the peace to the secretary. Such courts and justices of the peace shall furnish to said secretary the de-

tails of all flagrant cases which may be heard before them, and shall make such recommendation to said secretary as to the suspension or revocation of the licenses of the parties defendant in such cases as they may deem proper.

§ 22. [*Appeals from Decisions of Secretary—Procedure*].—Appeals from the decision of the secretary made under the provisions of this act may be taken to the superior court within the county where the appellant resides, and appeals by any person residing outside of this state shall be taken to the superior court within Hartford county. The provisions of section 2658 of the general statutes concerning appeals from the decision of county commissioners shall, so far as the same are applicable, govern the appeals from said secretary herein provided for.

§ 23. [*Disposition of Fines—Expenditure*].—All fines collected for violation of any of the provisions of this act shall be paid over to the secretary by the clerk of the court or the justice of the peace imposing the same, and all fees imposed by this act and collected by said secretary, together with all fines received by him as aforesaid, shall be by him paid monthly into the treasury of the state, and said money shall be expended under the direction of the highway commissioner for the maintenance of state highways, without specific appropriation by the general assembly, in addition to all sums already appropriated or that may hereafter be appropriated by the general assembly for the same purpose, and in the expenditure upon the highways of the moneys so received the provisions of section three of chapter 264 of the public acts of 1907, with regard to reimbursement by the towns, shall not be applicable.

§ 24. [*Acts Repealed Hereby*].—Chapter 221 of the public acts of 1907 and all acts and parts of acts inconsistent herewith are hereby repealed.

§ 25. [*Time of Taking Effect*].—This act shall take effect September 1, 1909.

An Act amending an act concerning the registration, numbering, use and speed of motor vehicles and the licensing of operators of such vehicles.

[Act approved August 26, 1909; Laws 1909, c. 264.]

Be it enacted by the Senate and House of Representatives in general assembly convened:

§ 1. [*Fees for Registration and License*].—Section eight of chapter 211 of the public acts of 1909 is hereby amended to read as follows: The secretary shall collect fees as follows: For the registration of every commercial motor vehicle and every motor truck, regardless of the horse power thereof, five dollars; for the registration of every motor

vehicle owned or controlled by a liveryman, ten dollars; for the registration of every other motor vehicle, sixty cents per horse power for motor vehicles of twenty-five horse power or more, and fifty cents per horse power for those under twenty-five horse power, said horse power to be determined according to the provisions of section two of this act; for the substitution of the registration of a motor vehicle previously registered in accordance with the provisions of section two of this act, two dollars; for each motor vehicle engine owned by or under the control of a manufacturer of motor vehicles and tested or operated on the highways of the state one dollar for each such engine, and every such manufacturer shall, on or before December 31, in each year, make a written report, under oath, to the secretary, of the number of engines so tested or operated during the year last preceding; for registration of all the motor vehicles owned by or under the control of a dealer in motor vehicles, twenty dollars; for every operator's license to operate motor vehicles, two dollars; for every additional copy of a certificate of registration or license, fifty cents; for every additional set of number plates furnished to replace such as have been lost or mutilated, or which are illegible, and for every additional set of number plates furnished to a manufacturer of motor vehicles or to a dealer or liveryman whose business requires more than six pairs of such plates, one dollar; provided, however, that said secretary, or his authorized agent, may furnish without charge copies of certificates of registration and licenses to operate and copies of other documents relating thereto to officers of the state, or of any court thereof, or of a city or town therein.

§ 2. [*Suspension or Revocation of Certificate of Registration or License of Operator—Jurisdiction and Powers of Secretary*].—Section nine of said chapter is hereby amended to read as follows: The secretary may suspend or revoke any certificate of registration or any license issued to any person under the provisions of this act, after due hearing, for any cause which he may deem sufficient, and may suspend the license of any operator, in his discretion and without a hearing, and may order such certificate or license to be delivered to him whenever he has reason to believe that the holder thereof is an improper or incompetent person to operate motor vehicles or is operating improperly or so as to endanger the public; and neither the license nor the certificate of registration shall be reissued, unless upon investigation or examination, or after a hearing, except, as hereinafter provided, said secretary determines that the operator should again be permitted to operate; and no motor vehicle, the registration of which has been so suspended or revoked, shall be registered in the name of any person until at least thirty days from the date of suspension or revocation, unless said secretary shall determine otherwise. Whenever the death of any

person results from any accident in which a motor vehicle is concerned, said secretary shall forthwith suspend the license of the operator of the motor vehicle involved in said accident and order the said license to be delivered to him, and shall revoke the same, unless, upon investigation or after a hearing, he determines that the accident occurred without serious fault upon the part of such operator. No operator whose license is so revoked shall be licensed again within two years after the date of the revocation, nor thereafter except in the discretion of said secretary. Notice of the revocation or suspension of any license or certificate of registration shall be transmitted forthwith by said secretary to the chief of police of the city or prosecuting officers of the borough or town in which the person whose license or certificate of registration so revoked or suspended resides. In the administration of the rules and regulations relating to motor vehicles and to their operators and the operation thereof, the secretary of the state may summon witnesses in behalf of the state and may administer oaths and take testimony and may also cause depositions to be taken and may order, when necessary for the carrying out of such provisions or any of the powers granted him thereby, the production of books, papers, and documents. Any person who swears or affirms falsely in regard to any matter or thing respecting which an oath or affirmation is required by said secretary, or by this act, shall be deemed guilty of perjury. The fees for the attendance and travel of witnesses shall be the same as for witnesses before the superior court, and shall be paid by the state upon the certificate of said secretary, which shall be filed with the comptroller. The superior court shall have jurisdiction in equity, upon the application of said secretary, to enforce all lawful orders of the secretary under this section.

§ 3. [*Time of Taking Effect*].—This act shall take effect September 1, 1909.

DELAWARE.

ACT OF APRIL 29, 1909.

- § 1. Registration Required.
- 2. Application for Registration—Fee—Issuance of Certificate—Tags—Nonresidents.
- 3. Display of Number—Illumination—Loss of One Tag.
- 4. Operator's License—Age of Licensees—Fees.
- 5. Duration of Registration or License—Transferability—Transfer of Vehicles.
- 6. Registration by Manufacturers and Dealers—Application—Fee—Tags.

- § 7. Driving While Intoxicated—Penalty—Jurisdiction of Offense.
8. License or Registration Applicable Only to Particular Person or Vehicle.
9. Equipment—Brakes—Signaling Device—Sounding—Lights.
10. Chains on Wheels.
11. Approaching Pedestrians or Horses—Warning—Care—Stopping in Case of Accident—Disclosing Identity.
12. Stopping on Signal from Driver of Horse.
13. Keeping to Right on Meeting, Left on Passing.
14. Speed—Ambulances—Fire Vehicles, etc.
15. Exhibition of License or Certificate of Registration—Further Identification.
16. Violation of Act—Arrest Without Warrant—Bail.
17. Penalties—Second or Subsequent Offenses.
18. Penalties—Third Offenses—Revocation of License.
19. Appeal from Conviction—Bond.
20. Definition of "Motor Vehicle."
21. Disposition of License and Registration Fees.
22. Effect upon Existing Licenses and Registrations.
23. Acts Repealed Hereby.

An act defining motor vehicles and providing for the registration of the same and uniform rules regulating the use and speed thereof.

[Act approved April 29, 1909; 25 Del. Laws, c. 120.]

Be it enacted by the Senate and House of Representatives of the State of Delaware in general assembly met:

§ 1. [*Registration Required*].—That, except as hereinafter provided, no motor vehicle shall be operated or driven upon any public street, road, turnpike or highway in this state until the said motor vehicle shall have been registered with the secretary of state.

§ 2. [*Application for Registration—Fee—Issuance of Certificate—Tags—Nonresidents*].—Every resident of this state who is the owner of a motor vehicle, and every nonresident, except as hereinafter provided, shall, annually, apply to the secretary of state for the registration of said motor vehicle. The application shall contain the name, place of residence and correct postoffice address of the owner, with a brief description of the motor vehicle, stating the name of the maker, manufacturer's number and character of the motive power and rated horse power. The said application shall be made upon a blank provided for the purpose by the secretary of state. It shall be signed by the owner and shall be verified by oath or affirmation. Upon receipt of the application and a fee of three dollars for a motor cycle and a fee of

five dollars for any other motor vehicle, the secretary of state shall register the said motor vehicle in a book to be kept for that purpose, and shall issue to the owner a registration certificate, and the secretary of state at the expense of the state shall provide two number tags containing the registration number, the figures of which shall not be less than five inches in height, and the abbreviated name of the state and the year. Provided, however, that nonresidents of this state shall be entitled to the same exemptions from the provisions of this act as are granted to the citizens of this state by the laws of the state in which said nonresidents reside. The fees provided for by this act shall include all the fees due the secretary of state upon any license or certificate provided for by this act.

§ 3. [*Display of Number—Illumination—Loss of One Tag*].—No motor vehicle shall be operated upon any public street, road, turnpike or highway unless the number tags are carried conspicuously, one on the front and the other on the rear of the motor vehicle in such manner that they may be easily read. They shall be parallel to the axles of the motor vehicle, and shall be kept free from oil, grease, dirt or other substance likely to impair their legibility; and between one hour after sunset and one hour before sunrise, the rear number tags shall be illuminated so that the number can be plainly distinguished when the motor vehicle is in use. Provided that when used upon the motor cycle the number tags shall be attached so that they may be plainly read from both sides of the said motor cycle instead of being attached to the front and rear; and provided further that the requirements as to illuminating the rear number tag shall not apply to motor cycles. Not more than one set of number tags shall be displayed upon any motor vehicle, except as provided in section 2 for nonresidents. No owner or operator of any motor vehicle shall be subject to fine or arrest when one number tag is missing, provided he makes affidavit that the same has been lost or removed without his knowledge or consent, and that he will promptly provide a new tag.

§ 4. [*Operator's License—Age of Licensees—Fees*].—No person, except as provided for nonresidents in section 2, shall operate a motor vehicle other than a motor cycle, upon the public streets, roads, turnpikes, or highways of this state unless he has first obtained from the secretary a license. No license shall be issued to, nor shall any motor vehicle be operated by any person under sixteen years of age. Applications for license shall be made in writing upon a blank furnished by the secretary of state, and shall contain the name of the applicant, his place of residence, including city or town, street and number, and his postoffice address, and shall state that he is over sixteen years of age and is qualified to operate a motor vehicle. It shall be signed by the applicant's own hand and verified by oath or affirmation. Upon receipt

of the application and a fee of five dollars, the secretary of state shall issue to the applicant a license. The license shall contain the licensee's name and residence, and the date and number of the license, and shall be carried by the licensee at all times when operating a motor vehicle.

§ 5. [*Duration of Registration or License—Transferability—Transfer of Vehicle*].—Motor vehicles may be registered and licenses issued at any time during the year, but all registration and licenses shall cease to be effective on the thirty-first day of December of the year issued. A registration certificate or license issued to one person shall not be transferred to another person, and no operator's license shall be issued to a firm or corporation nor in the name of more than one person. Upon the transfer of ownership of any motor vehicle, its registration shall expire, and it shall be the duty of the person in whose name such vehicle is registered to immediately notify the secretary of state of the name and address of the new owner, and to return to the said secretary of state the registration certificate for the vehicle so transferred. Should the original owner make application for the registration of another motor vehicle within the period of two months, accompanied by a fee of one dollar, he shall be assigned the number previously issued to him.

§ 6. [*Registration by Manufacturers and Dealers—Application—Fee—Tags*].—Motor vehicles, operated by manufacturers or dealers for the purpose of testing or selling, shall be exempt from the necessity of individual registration, provided said manufacturer or dealer registers with the secretary of state in the "dealer's class." Application for such registration stating the number of cars to be registered, shall be made upon a blank provided for the purpose by the secretary of state which shall state the name and business of the applicant, and shall be verified by oath or affirmation. Upon receipt of the application and a fee of five dollars for each car to be registered, the secretary of state shall issue to the applicant a certificate of registration, and the manufacturer or dealer shall provide a pair of number tags which shall contain numbers of registration in figures not less than five inches in height, the year and the words "Delaware Dealer." Such car shall be operated only by licensed drivers who shall have authority to operate motor vehicles bearing the said tags for testing or demonstrating purposes or for hire.

§ 7. [*Driving While Intoxicated—Penalty—Jurisdiction of Offense*].—No person when intoxicated shall operate a motor vehicle under penalty of a fine of not more than one hundred dollars or imprisonment not exceeding thirty days, or both. Any justice of the peace of the state or the judge of the municipal court of the city of Wilmington shall have power to hear and determine the offense created by this section.

§ 8. [*License or Registration Applicable Only to Particular Person or Vehicle*].—No person having been licensed shall operate a motor vehicle under another license, nor operate an unregistered motor vehicle. No motor vehicle shall be operated under any other number than that of its own registration.

§ 9. [*Equipment—Brakes—Signaling Device—Sounding—Lights*].—Every motor vehicle shall be provided when in use with good and sufficient brakes, and with a horn, bell or other signal device, which shall be sounded whenever necessary to insure the safety or other uses of the highway. Motor vehicles shall, from one hour after sunset until one hour before sunrise show at least one white light visible not less than two hundred feet in the direction toward which the motor vehicle is proceeding, and one red light shall be shown visible in the opposite direction.

§ 10. [*Chains on Wheels*].—The use of chains on the wheels of motor vehicles is prohibited, except on highways of natural dirt, plank, asphalt, cobble, brick, Belgium block, or on at least one inch of ice or hardened snow, except in cases where the condition of other highways is such as to render their use necessary for the safety of the users of the highway.

§ 11. [*Approaching Pedestrians or Horses—Warning—Care—Stopping in Case of Accident—Disclosing Identity*].—Upon approaching any person walking upon the public highways, or a horse, horses, or other draft animals being led, ridden, or driven, the operator of the motor vehicle shall give reasonable warning of his approach and use every precaution to avoid injuring such persons or frightening such animals, bringing his motor vehicle to a stop, should such animals appear to be unmanageable, stopping his engine, if the occasion require it, until such animals (have) had sufficient time to pass. In case of injury to person or property due to the operation of a motor vehicle, the operator of said vehicle shall stop, and upon the request of the person injured, or in whose custody such property then was, give his name and address, and that of the owner of said motor vehicle.

§ 12. [*Stopping on Signal from Driver of Horse*].—Every person driving a motor vehicle shall, at request or upon signal by putting up the hand or otherwise from a person riding or driving a horse or horses in the opposite direction, cause the motor vehicle to stop and remain stationary so long as may be necessary to allow said horse or horses to pass on.

§ 13. [*Keeping to Right on Meeting, Left in Passing*].—Whenever a person operating a motor vehicle, or any person riding, driving, or leading a horse, horses or other draft animals, shall meet any other vehicle or other draft animals, the operators, drivers or persons having such animals in charge shall reasonably turn to the right of the

centre of the said highway, so that such vehicle or animals may pass without interference, and the driver of any vehicle overtaking any other vehicle or draft animals being led, ridden or driven upon any public highway, shall pass to the left thereof, the driver of such vehicle or persons having charge of such animals so overtaken shall turn to the right of the centre of the road to allow free passage to the left.

§ 14. [*Speed—Ambulances—Fire Vehicles, etc.*].—The following rates of speed may be maintained but not exceeded. Upon any public street or highway where the buildings are less than an average distance apart of one hundred feet, a rate of speed of one mile in five minutes shall be permitted, but not exceeded, which, however, shall be reduced to the (rate) of one mile in ten minutes at curves and at intersections of other streets or highways. Upon any public street or highway where the buildings are of greater distance apart than one hundred feet, at a rate of speed of one mile in three minutes shall be permitted, but not exceeded, but this rate of speed shall be reduced to one mile in five minutes at all curves, intersecting roads, in descending steep hills, and in passing other vehicles, providing that nothing in this section shall permit any person to drive a motor vehicle at a greater rate of speed than is reasonable, having regard to the traffic, or so as to endanger the safety of any person or injure the property of any person; provided, further, that motor vehicles used as ambulances, or by physicians responding to emergency calls, or motor vehicles used by the police, fire department or military when in the performance of duty, are exempt from compliance with the provisions of this section.

§ 15. [*Exhibition of License or Certificate of Registration—Further Identification*].—All operators of motor vehicles shall, upon request or signal of any constable or police officer, stop and exhibit their registration certificate or license, and shall furnish to any legally constituted authority all information in their possession as to the identity of the operator or owner of any motor vehicle.

§ 16. [*Violation of Act—Arrest without Warrant—Bail*].—The constables and police officers of any city, town or county of this state may arrest upon view and without warrant any person or persons violating any of the provisions of this act. In the event of an arrest as aforesaid, if the defendant is unable to give sufficient bail for a hearing or for his appearance at court, the magistrate before whom he is first taken may accept as a forfeit, conditioned upon the defendant's appearance as aforesaid, a sum of money equal in amount to the maximum fines which could be imposed under the provisions of this act, and the costs, or in lieu of such bail or forfeit may accept any article, of sufficient value, or hold in custody the motor vehicle found in the possession of the defendant; and such magistrate, after the trial of

the defendant if not sufficient bail according to law has been given in the meantime, shall make such order as to the disposition of such motor vehicle or other articles as to him shall seem just and proper.

§ 17. [*Penalties—Second or Subsequent Offenses*].—Any person violating any of the provisions of this act, shall be subject to a fine of not less than ten nor more than twenty-five dollars to be collected by summary conviction before any mayor or justice of the peace or judge of the municipal court of the city of Wilmington as like fines and penalties are now by law collectible; or in case of nonpayment of a fine to undergo an imprisonment for a period not exceeding ten days. Any person or persons who have been previously convicted before a mayor, justice of the peace of this state, or judge of said municipal court, of any violation of the provisions of this act, upon commission of a second or subsequent offense within a period of six months shall be sentenced to pay a fine of not less than twenty-five dollars nor more than one hundred dollars, and in case of nonpayment of such fine to undergo an imprisonment for a period not exceeding twenty days.

§ 18. [*Penalties—Third Offenses—Revocation of License*].—Any person who has been previously convicted of any violation of the provisions of this act upon the commission of a third offense within a period of six months shall be sentenced to pay a fine of not less than one hundred dollars nor more than two hundred dollars, or imprisoned for a period not exceeding three months, or both, in the discretion of the court. Upon the certification of the secretary of state by any mayor, justice of the peace or said judge of a third conviction for violation of the provisions of this act in any one year, the license issued to such person so convicted may immediately be revoked by the secretary of state, and shall not again be reissued for a period of one year after such revocation.

§ 19. [*Appeal from Conviction—Bond*].—Any person convicted under the provisions of this act shall have the right to an appeal to the court of general sessions of the county upon giving bond in the sum of five hundred dollars to the state with surety satisfactory to the mayor, justice of the peace or judge before whom such person was committed. Such appeal to be taken and bond given within two days from the time of conviction.

§ 20. [*Definition of "Motor Vehicle"*].—The term "motor vehicle" as used in this act shall apply to all wheeled vehicles operated by any form of engine, motor or mechanical power, excepting road rollers, traction engines and vehicles which move upon or are guided by a track.

§ 21. [*Disposition of License and Registration Fees*].—The revenue derived from the registration of motor vehicles and the licensing

of operators thereof under the provisions of this act shall be paid to the state treasurer.

§ 22. [*Effect upon Existing Licenses and Registrations*].—That all registration and licenses in effect at the time of the approval of this act shall continue in force until the first day of January, A. D. nineteen hundred and ten.

§ 23. [*Acts Repealed Hereby*].—That chapter 124 of volume 23, Laws of Delaware and chapter 144 of volume 24, Laws of Delaware, be and the same are hereby repealed.

DISTRICT OF COLUMBIA.

ACT OF JUNE 29, 1906.

- § 1. Speed—Rates.
- 2. Prosecutions—Mode—Court.
- 3. Authority of Commissioners Not Restricted.

ACT OF MARCH 3, 1909.

Tax on Vehicles.

POLICE REGULATIONS.

- Art. 26, § 1. Operator's License—Application—Qualifications of Licensees.
- 2. License—Form—Number Tags—Display—Fee—Transfer—Nonresidents.
- 3. Lights—Motor Cycles.
- 4. Device to Prevent Use of Vehicle when Left Unattended.
- 5. Traffic Regulations—Right of Way.
- 6. Smoke or Vapor.
- 7. Muffler—Cutting Out—Noise of Machinery.
- 8. Search Lights.
- 9. Operation—Care—Drunkenness—Stopping in Case of Accident and Disclosing Identity.
- 10. Production of Permit.
- 11. "Automobile Board"—Functions—Permits.
- 12. Penalties.
- Art. 10, § 1. Signaling Device—Sounding.
- 5. Penalty.
- 12, 1. Character of Vehicle.
- 2. Display of Advertisements.

- Art. 12, § 3. Driving on Sidewalk—Obstruction of Certain Ways.
4. Lights.
 5. Operation—Distance between Vehicles—Driving Alongside.
 6. Rules of Road—H Street Viaduct—Other Localities—Turning Corners—Crowding Others.
 7. Vehicles for Hire—Loitering—Soliciting Patronage.
 8. Stopping Alongside Other Vehicle or at Crossing.
 9. Vehicles of Police, Fire, Health, etc., Departments—Privileges.
 10. Collision.
 11. Vehicles for Hire—Lights.
 12. Articles Carried in Vehicles.
 13. Parades and Processions—Permits.
 14. Obstruction of Way—Crossing Sidewalks—Speed.
 18. Speed on Certain Streets.
 28. Penalty.
- 14, 3. Impeding Fire Department—Driving Across Hose—Penalty.

An Act regulating the speed of automobiles in the District of Columbia, and for other purposes.

[Act approved June 29, 1906, c. 3615; 34 St. L. 621.]

§ 1. [*Speed—Rates*].—That no person shall drive or propel, or cause to be driven or propelled, any automobile, horseless or motor vehicle, bicycle, or horse-drawn vehicle within the fire limits of the District of Columbia, as said fire limits are now defined or may hereafter be defined from time to time in and by the building regulations of said District, upon any street, avenue, alley, or public highway at a greater rate of speed than twelve miles an hour between intersecting streets and avenues; nor at a greater rate of speed than fifteen miles an hour through any of the parks within said District; nor across streets at a greater speed than eight miles an hour; nor at a greater rate of speed than six miles an hour around the corners of any street or avenue; nor at a greater rate of speed than four miles an hour on the east side of Fifteenth street northwest between the south building line of G street and the south curb line of New York avenue; nor on the west side of Fifteenth street northwest between the line which would be the south building line of G street if extended to the west side of Fifteenth street and from said extended line north to the north curb line of Pennsylvania avenue; nor at the intersection of Ninth and F streets northwest between the building lines of the said streets;

nor at the intersection of Ninth and G streets northwest between the building lines of said streets; nor at the intersection of Eleventh and F streets northwest between the building lines of the said streets; nor at the intersection of Eleventh and G streets northwest between the building lines of the said streets; nor on any public roadway, street, avenue, or alley within said District outside of said fire limits at a greater rate of speed than twenty miles an hour; and when meeting or passing any other vehicle the speed shall not exceed twelve miles an hour, and any automobile shall be brought to a full stop whenever the driver of a horse-drawn vehicle shall signal by raising the hand, and said vehicles shall at all times be under the control of the driver or operator; and the driver or operator and the owner or proprietor riding thereon or therein violating any of the provisions hereof shall, upon conviction for the first offense, be fined not less than five dollars nor more than fifty dollars, and shall, upon conviction for the second offense within one year from the commission of the first offense, be fined not less than ten dollars nor more than one hundred dollars, or imprisoned for not less than five days nor more than thirty days at the discretion of the court; and shall, upon conviction for the third offense within one year from the commission of the first offense, and for any and all subsequent offenses, be fined not less than fifty dollars nor more than two hundred and fifty dollars, and be imprisoned in the workhouse for not less than thirty days nor more than six months.

§ 2. [*Prosecutions—Mode—Court*].—That prosecutions for violation of the provisions of this Act shall be on information filed in the police court of the District of Columbia by the corporation counsel or any of his assistants.

§ 3. [*Authority of Commissioners Not Restricted*].—That this Act shall not be held to take away the authority of the Commissioners of the District of Columbia to make police regulations not inconsistent herewith.

An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes.

[Act approved March 3, 1909, c. 250; 35 St. L. 688, 693.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the half of the following sums named, respectively, is hereby appropriated, out of any money in the treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, in full for the purposes following, being for the expenses of the government

of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, namely: . . .

[*Tax on Vehicles*].—Automobile Board: For secretary or acting secretary of the automobile board, three hundred dollars: *Provided*, That hereafter there shall be assessed and collected an annual wheel tax on all automobiles or other motor vehicles owned and operated in the District of Columbia having seats for only two persons the sum of three dollars, and on all such vehicles having seats for more than two persons an additional tax of two dollars for each additional seat.

POLICE REGULATIONS.

ARTICLE XXVI.

§ 1. [*Operator's License—Application—Qualifications of Licensees*].—It shall be unlawful for any person or persons, with the exception hereinafter named, to operate any motor vehicle of any kind, the motive power for which shall be electricity, steam, gas, gasoline, oil, naphtha, or other similar sources of energy, whether such vehicle be used as public hack, truck, or for hire, or for private use for pleasure or for business, except railroad locomotives and electric cars, until such person has procured a permit as hereinafter prescribed: *Provided, however*, That this regulation shall not apply to any person learning to operate motor vehicles, in case such learner is accompanied by a licensed operator, who shall be held responsible for the strict observation of these regulations by such learner. Any person desiring a permit to operate motor vehicles shall make application to the Secretary of the Automobile Board on the prescribed form. The applicant must be indorsed, as provided on said form, by three reputable citizens of the District of Columbia. It shall be the duty of the Automobile Board or of some member of the said board to make a careful inquiry into the applicant's qualifications to operate the type of vehicle specified, and to report thereon to the Commissioners of the District of Columbia, or to an assistant to the Engineer Commissioner acting under their supervision. If the application be approved by the Commissioners of the District of Columbia, or an assistant to the Engineer Commissioner acting under their supervision, the permit shall thereupon be issued to the applicant by the Secretary of the Automobile Board. Otherwise the applicant may appear before the Automobile Board at a regular meeting thereof, for further examination. Should the applicant fail to obtain a permit as a result of the examination, he shall not be examined again until the lapse of at least three (3) months.

It shall be a condition of any permit granted as above, that the applicant agree that the Commissioners of the District of Columbia shall have the right to suspend or revoke the permit upon the recommendation of the mayor and superintendent of the metropolitan police force and evidence submitted by him sufficient in the opinion of the Commissioners of the District of Columbia to prove that continuance of the permit is a menace to public safety. A fee of two (\$2) dollars shall be charged for each and every permit issued under this provision.

No permit to operate any of the vehicles mentioned in this section shall be issued to any person under eighteen years of age, except where such person shall have physically demonstrated his capacity to operate such vehicles; nor shall a permit to operate such vehicles be issued to any such person, save for the operation of a private vehicle, owned by such minor, his parent, or his guardian. But this age of restriction shall not apply to applicants for the operation of motor bicycles.

§ 2. [*License—Form—Number Tags—Display—Fee—Transfer Nonresidents*].—Each permit issued hereunder shall be numbered, and shall contain the name and address of the person in whose favor it is issued, and shall describe definitely the type of motor in the vehicle to be operated thereunder. Each machine shall be identified by an enamel metal identification number tag, which shall be conspicuously displayed upon the rear of the vehicle, so as to be plainly visible from a distance of at least seventy-five feet behind the vehicle; the figures to be separate Arabic numerals not less than four inches high, with strokes not less than one-half of an inch in width, of the customary proportions and spacing of numbers of such size; and also as a part of the identification number tag the words "District of Columbia" in letters one inch in height shall be plainly inscribed across the top portion of said tag; and not more than two identification number tags of other States or Territories, nor more than three in all, may be displayed upon the rear of the vehicle. The owner of each motor vehicle shall pay two dollars to the collector of taxes of the District of Columbia for each identification number tag and registration thereof, which tag shall be issued to such owner by the Secretary of the Automobile Board upon surrendering to said secretary the receipt of the collector of taxes, D. C., for such fee. Numbers shall not be transferred from one vehicle to another, nor shall machine numbers be loaned from one person to another, nor shall fictitious numbers be used. The police regulations requiring the placing of numbers on motor vehicles shall not apply to motor vehicles brought into the District of Columbia by tourists or other nonresidents for their use during a transient sojourn only in said District, and who with respect to such vehicles, have complied with any law requiring the registration

of owners or operators of motor vehicles in the state or territory of their residence, and where the registration number showing the initial or initials of such state or territory is displayed on such vehicles. But the police shall require the registration by the owners or operators of such vehicle or vehicles, with the Secretary of the Automobile Board, within twenty-four hours after the arrival of such vehicle or vehicles into said District, of the description and designation numbers of such vehicles, with the temporary address in the District of Columbia and the home address of such owners or operators, and such registration shall warrant the operation of such motor vehicles in the District of Columbia for a period not to exceed ten days from the date of such registration. Upon such vehicles not more than three registration numbers, including the registration number of the state of which the owner or operator is a resident, shall be displayed.

§ 3. [*Lights—Motorcycles*].—Each vehicle to which these regulations refer shall be equipped with at least two suitable lamps, to be approved by the Commissioners of the District of Columbia, such lamps to be carried at the front of the vehicle, one on each side. There shall also be a lamp attached to the left side of the rear of such vehicle, so as to throw a white light upon and thus make plainly visible the machine number, and to show a red light to the rear. The said lamps shall be kept brightly burning from one-half hour after sunset as long as the vehicle is used at night: *Provided*, That the provisions of this section requiring the placing of a lamp upon the rear of vehicles shall not apply to motor cycles.

§ 4. [*Device to Prevent Use of Vehicle when Left Unattended*].—Each vehicle to which these regulations refer shall be provided with a lock suitable to lock the starting lever, throttle, or switch by which the vehicle is set in motion, and no person shall allow any motor vehicle operated by him, or by her, to stand or remain unattended on any of the streets, avenues, roads, alleys, highways, parks, parkways, or other public places, without having first locked the lever, throttle, or switch, by which the vehicle may be started.

§ 5. [*Traffic Regulations—Right of Way*].—Motor vehicles moving north or south shall have the right of way over motor vehicles moving east or west, but this right of way shall not be construed as relieving the operator of any motor vehicle having such right of way from exercising due caution to prevent collision with other vehicles or with pedestrians.

§ 6. [*Smoke or Vapor*].—That no person shall locate, conduct, or operate a motor vehicle of any kind whatsoever, at or about any depot, church, theater, hotel, reception or other place where the public may congregate, or within the limits of Rock Creek Park, or Potomac Park,

or in or upon any street, avenue, or public highway of the District of Columbia, which emits from the exhaust or muffler of said motor vehicle any prolonged and dense or prolonged and offensive quantities of smoke, gases or disagreeable odors.

§ 7. [*Muffler—Cutting Out—Noise of Machinery*].—That every motor vehicle of whatsoever kind, operated in the District of Columbia, shall be provided with a muffler to be so complete in construction as to prevent any unnecessary, intense or prolonged noise in the operation or management of said motor vehicle, or the machinery in connection therewith, and said muffler shall not be cut out, or put out of operation, in any park or public grounds, nor in any built-up section of the District of Columbia, nor where horses are present, nor for the purpose of warning others of the approach of the motor vehicle. The operator of every motor vehicle in the District of Columbia shall close down the motor of such vehicle when the vehicle is in any park, or upon any public street, or public alley, and not in motion, provided said operator leaves his vehicle, and any extraordinary, intense or prolonged noise in any park, or upon any public street, or public alley, incident to the starting, moving or adjusting the machinery of such vehicle shall be a violation of this section.

§ 8. [*Search Lights*].—No operator of any motor vehicle of whatsoever kind, while conducting the same in the District of Columbia, shall use any acetylene, electric, or any other headlight in the business or congested sections, unless so lowered as not to dazzle or blind any other driver, operator, or pedestrian on the streets or highways of such sections, or make it in any wise unsafe or difficult for any such drivers, operators or pedestrians to ride, drive or walk on said streets or highways: *Provided*, That this paragraph shall in no wise abridge or modify the requirements of Section 3, of Article XXVI, of the Police Regulations, requiring lights on all motor vehicles.

§ 9. [*Operation—Care—Drunkenness—Stopping in Case of Accident and Disclosing Identity*].—No person shall operate a motor vehicle recklessly, or while under the influence of intoxicants, or so as to injure the life or safety of any person, nor, after causing injury to persons or property, go on or away, without reasonable excuse therefor, without making himself, or herself, known.

§ 10. [*Production of Permit*].—Each person shall exhibit his or her permit to any police officer or to any member of the above-mentioned board of examiners, when demand for such exhibit is made.

§ 11. [*"Automobile Board"—Functions—Permits*].—The Board of Examiners of Steam Engineers, and the Permit Clerk are hereby appointed "the Automobile Board," and such board or any member thereof shall consider applications from persons who desire to operate motor vehicles of any kind, except railroad locomotives and electric

railroad cars, in the District of Columbia, and said board or any member thereof shall after due examination make report to the Commissioners of the District of Columbia or an assistant to the Engineer Commissioner acting under their supervision, as to the competency or incompetency of each such applicant. The Secretary of the Automobile Board is hereby designated as the official to issue the permits when such applications have received the approval of the Commissioners of the District of Columbia or an assistant to the Engineer Commissioner acting under their supervision.

§ 12. [*Penalties*].—Any person attempting to operate or operating any vehicle covered by the provisions of these regulations on any of the streets, avenues, roads, alleys, highways, parks, parkways, or other public places within the District of Columbia, without first obtaining a permit to do so, or who shall otherwise violate any of the provisions or requirements of these regulations, shall be punished, on conviction thereof, by a fine of not less than five dollars nor more than forty dollars for each and every violation.

ARTICLE X.

§ 1. [*Signaling Device—Sounding*]. . . . Motor vehicles shall sound a suitable bell, gong, or horn when necessary to warn persons of their approach; but nothing herein shall permit any unnecessarily loud or any discordant alarm device, and the same are hereby expressly forbidden: . . . *Provided further*, . . . Motor carriages and all cycles, bicycles, tricycles and carts for the collection of ashes and combustible waste shall have at all times a suitable gong or bell (or, in the case of motor vehicles, a suitable horn), sufficiently distinctive from the bells provided for the fire department and ambulance service, so attached as to be readily sounded for the purpose of warning persons of their approach.

§ 5. [*Penalty*].—Any person violating any of the foregoing provisions of this article shall, on conviction thereof, be punished by a fine of not less than one dollar nor more than forty dollars.

ARTICLE XII.

§ 1. [*Character of Vehicle*].—No person shall operate or propel any vehicle of any kind upon the streets, avenues, alleyways, or any public space, which, by its unsafe or unsanitary condition or character or construction, is dangerous to life or limb. Nor shall any coasting be done with sleds, or sleighs, or other vehicles in any of the places named in this section, except in localities where no annoyance or danger

is caused thereby, and where those engaged in the sport are not specially endangered.

§ 2. [*Display of Advertisements*].—No person shall allow or permit any vehicle or animal of any kind to be used on the streets, avenues, highways, public spaces, or alleys in the District of Columbia on which vehicle or animal any sign or advertisement by means of temporary frame work, or other frame work, means, or method is erected or constructed thereon, where any such vehicle or animal is used solely for advertising purposes or for the business of advertising, or any vehicle or animal on which any sign or advertisement is erected, constructed or placed in such manner as to impede, impair, endanger, interfere or obstruct the public use of any such street, avenue, highway, public space or alley, without a written permit from the mayor and superintendent of the metropolitan police first had and obtained: *Provided*, This regulation shall not apply to painted or similar signs or advertisements ordinarily used on vehicles or animals in the lawful business of the owner or possessor thereof, nor to signs or advertisements on street railway cars, nor to signs in the course of transportation from place to place.

§ 3. [*Driving on Sidewalk—Obstruction of Certain Ways*].—No person shall lead, drive or ride any horse or other animal; propel any wheelbarrow, hand cart, sleigh, carriage or other vehicle, except baby carriages, upon any sidewalk, except in passing into or from lots where the pavements shall be constructed for that purpose; and no person or persons shall ride any cycle, bicycle, or tricycle over or upon any sidewalk or footwalk intended for the use of pedestrians. No vehicle of any description shall stand at the entrance of the roadways running into the parking in front of the new Municipal or District Building, or at the entrance on Thirteenth-and-a-half street, or at the entrance on Fourteenth street, of said building, so as to obstruct ingress to or egress from the said roadways or entrances; nor shall any such vehicle stand upon any part of such roadways or before said entrances for a longer time than is conveniently necessary to take on or discharge passengers. No wagon, dray or other vehicle loaded with freight or merchandise of any kind shall be permitted to stand upon any part of such roadways or at or before said entrances. No bicycle, motor-cycle, or other like vehicle shall be left standing against any part of the stone parapet surrounding the new Municipal or District Building, or in the area between the said parapet and the said building, or upon any part of the paved sidewalks or footpaths around the said building, or upon any part of the lawns in front of the said building, or the pavements or footwalks in or around the said lawns.

§ 4. [*Lights*].—All cycles, bicycles, tricycles and motor vehicles in motion, between one hour after sunset, and one hour before sunrise, shall display suitable lights.

§ 5. [*Operation—Distance between Vehicles—Driving Alongside*].—The drivers of vehicles in motion and following each other on any street, avenue or alley within the District of Columbia shall maintain a clear interval of not less than fifteen feet between every two consecutive carriages, carts or wagons, including the animals drawing the same; and the driver of every carriage, cart or other vehicle shall at all times keep either upon the seat thereof, or at the head of the animal or team drawing the same, and shall at all times be on the lookout, and also shall guard against the running away of such animal or team. Vehicles shall not be allowed to stand or be driven two or more abreast on either side of streets upon which are double street car tracks, unless the roadway is more than fifty feet wide.

§ 6. [*Rules of Road—H Street Viaduct—Other Localities—Turning Corners—Crowding Others*].—Every vehicle in motion on a public highway shall keep on the right side thereof, except the apparatus of the fire department responding to a fire alarm, which must also conform to this general rule, unless the right side of the roadway is obstructed or in an unsafe condition for its use; in which case the drivers must give due warning and use extraordinary care to avoid accident. Traffic under the H street viaduct shall move in the following manner: All slow moving vehicles shall keep next to the curb on the south roadway going east and on the north roadway going west; carriages and quickly moving vehicles going east shall keep next to the pillars in the south roadway and those going west next to the pillars in the north roadway; no vehicle shall use the middle of the roadway between the pillars, except street cars and automobiles. Every heavily loaded slow moving vehicle on a public street or avenue shall keep as close as possible to the curb on the right side thereof. New York avenue from Ninth to Thirteenth streets, northwest, and Pennsylvania avenue, shall each be considered as one street. Every vehicle, when passing another vehicle facing or moving in the opposite direction, shall pass to the right; but in passing another vehicle moving in the same direction, shall pass to the left. When a vehicle is to be turned around it shall have the right of way, if turned to the right. If necessary to turn about to the left, the person in charge thereof shall see that his way is clear before turning. Every vehicle turning to the left, into an intersecting street, shall move so as to leave sufficient clear space between it and the left-hand curb to permit the safe passage of another vehicle. Every vehicle in turning a corner to the right shall keep to the right of the centre of the street; large motor vehicles which are unable to make the turns herein prescribed shall

make the shortest turn possible with safety for such vehicles when moving within the speed limits. No vehicle shall be so directed as to crowd any person on a bicycle on or against the curb of the street, or on or against any other vehicle or object in such street, or off or over any embankment or into any aperture or depression. Travel on the public streets shall be regulated at all intersecting crossings by allowing the right of way to those going north and south.

§ 7. [*Vehicles for Hire—Loitering—Soliciting Patronage*].—Vehicles for hire, seeking employment, shall not stop or loiter upon any street except at the regular public stands, nor shall the driver of any such vehicle solicit passengers upon the streets, avenues or public grounds.

§ 8. [*Stopping Alongside Other Vehicles or at Crossings*].—No vehicle shall stop abreast of another vehicle upon any street, to the obstruction of traffic therein, nor shall any vehicle stop upon a street crossing or upon the carriage way of a street intersection.

§ 9. [*Vehicles of Police, Fire, Health, etc., Departments—Privileges*].—Vehicles of the police, fire, health and water departments and hospital ambulances and of physicians summoned in emergency cases shall have the right of way in and upon highways, streets, avenues and alleys over all other vehicles, and the sounding of the bell or gong thereon shall constitute a warning and direction to other vehicles and pedestrians to clear the road.

§ 10. [*Collision*].—No person shall ride a bicycle, horse, or drive a horse-drawn vehicle, or propel a horseless vehicle, or any street car, so as to carelessly or wilfully collide with any person, bicycle, horse, horse-drawn or horseless vehicle, or any street car, and the rider, driver, or operator of such bicycle, horse, or vehicle shall make way for pedestrians at street crossings. . . .

§ 11. [*Vehicles for Hire—Lights*].—Every public vehicle for the conveyance of passengers for hire shall display between sunset and sunrise brightly lighted lamps so placed as to be plainly visible from the front and sides thereof, and so as to plainly indicate its number at a distance of twenty feet.

§ 12. [*Articles Carried in Vehicles*].—No vehicle shall have articles hung on the side thereof, projecting beyond the hubs of wheels, nor more than ten feet in the rear of the rear axle, without a permit from the mayor and superintendent of police. The transporting of telegraph and similar poles and timbers upon any vehicle is forbidden, except under permit from the mayor and superintendent of police, which shall prescribe the route and time of such transport. All articles, goods, wares, merchandise or materials on all vehicles shall be securely placed thereon, and no uncovered vehicle carrying articles, goods, wares, merchandise or materials shall be loaded above the side

or sides thereof, nor so as to project beyond the hub of any wheel, without a permit from the mayor and superintendent of police.

§ 13. [*Parades and Processions—Permits*].—Processions and parades, except funerals, involving the use of vehicles shall not be allowed except by permit of the mayor and superintendent of police, which permit shall designate the time and route of such procession or parade, and no vehicle shall move in such procession or parade except according to the terms of such permit.

14. [*Obstruction of Way—Crossing Sidewalks—Speed*].—No vehicle shall unnecessarily obstruct the free passageway of any street or avenue, nor hinder or delay the passage of any other vehicle; nor shall any vehicle be driven across any of the sidewalks in the city of Washington, at a greater rate of speed than a walk.

§ 18. [*Speed on Certain Streets*].—No person shall drive or propel, or cause to be driven or propelled, any automobiles, horseless or motor vehicle, bicycle, or horse-drawn vehicle, or ride any animal of the horse kind, going south, at the intersection of Four-and-a-half street and Virginia avenue, between the building lines of said street and avenue, and at the intersection of Sixth and Seventh streets and Virginia avenue, between the building lines of said streets and avenue, at a greater rate of speed than four miles an hour.

§ 28. [*Penalty*].—Any person violating any of the provisions of any section of this article a penalty for which is not heretofore provided shall, on conviction thereof, be punished by a fine of not less than one dollar nor more than forty dollars for each offense.

ARTICLE XIV.

§ 3. [*Impeding Fire Department—Driving Across Hose—Penalty*].—No person shall propel, permit, or allow any motor vehicle, horseless vehicle, car, bicycle, tricycle, or other vehicle to be propelled or driven, nor drive, permit or allow any animal attached to any vehicle whatsoever to be driven, on, over, or across any fire hose wheresoever situated; nor obstruct, delay, hinder, or impede any fire apparatus or vehicle while in public use, or any member of the fire department while engaged in the discharge of his duty, along, over, on, or about any of the avenues, highways, streets, parks, parking, or other public space or place within the District of Columbia; or pass or ride in or on any vehicle or on any animal in front of or at the side of any apparatus or vehicle of the fire department, or of the officers and agents thereof, when engaged in public service; or interfere with, hinder, delay, or impede the driver of any fire apparatus or any vehicle of any member of the fire department while engaged at or about any fire,

or at any other place while in the discharge of his duty. Any person violating any of the provisions of this regulation shall, on conviction thereof, be punished for each and every offense by a fine of not more than twenty dollars.

It is in violation of the laws and regulations:

1. To drive or propel any vehicle between the building lines of said 15th and H streets, N. E., between building lines of said streets, for a distance of two hundred feet east of the intersection of 15th and H streets, N. E., and for a distance of fifty feet west of said intersection; nor in going south at the intersection of Four-and-a-half street and Virginia avenue, between the building lines of said street and avenue, and at the intersection 7th street and Virginia avenue, between the building lines of said street and avenue, at a greater rate of speed than four miles an hour.

2. To drive or propel any automobile after the driver of a horse drawn vehicle shall have signaled for same to stop by raising his hand.

3. To drive or propel any vehicle which by its unsafe or unsanitary condition or construction is dangerous to life or limb.

4. To operate any motor vehicle, bicycle or tricycle without a suitable gong or bell (or in the case of motor vehicles, a suitable horn.)

5. To operate any motor vehicle, bicycle, or tricycle, between an hour after sunset and an hour before sunrise, without suitable lights.

6. For the driver or operator of vehicles in motion to follow each other closer than fifteen (15) feet.

7. For the driver of a vehicle to leave the same while it is in motion. He shall at all times keep either upon the seat thereof, or at the head of the animal or team drawing same.

8. To drive or propel or to stand two or more vehicles abreast on either side of street car tracks, unless the roadway is more than fifty (50) feet wide.

9. To drive or propel a vehicle on other than the right hand side of the street.

10. Every vehicle when passing another vehicle facing or moving in the opposite direction shall pass to the right; but in passing another vehicle moving in same direction shall pass to the left.

11. When a vehicle is to be turned around it shall have the right of way, if turned to the right. If necessary to turn to the left, the person in charge shall see that the way is clear before turning.

12. To drive or propel a vehicle around a corner into an intersecting street in turning to the left without leaving sufficient space between the vehicle and the left hand curb to permit the safe passage of another vehicle.

13. To drive or propel any vehicle so as to crowd any person on a

bicycle on or against the curb or on or against any other vehicle or object.

14. For drivers of public vehicles to stop or loiter with their vehicles, or solicit passengers upon the streets.

15. For vehicles to stop abreast of another vehicle upon any street, to the obstruction of traffic.

16. To stop any vehicle upon a street crossing or upon the carriage-way of a street intersection.

17. To drive or propel a vehicle so as to collide with a person or other vehicle.

18. For public vehicles to travel between sunset and sunrise without lamps brightly lighted and to plainly indicate its number upon the side of lamps at a distance of twenty (20) feet.

19. For one vehicle to unnecessarily obstruct the free passageway of any street or avenue, or hinder or delay the passage of any other vehicle.

20. To drive or propel any vehicle across a sidewalk.

21. To ride a bicycle with the lower end of the handle bars on a plane lower than four inches below the top of the saddle at its centre.

22. To drive or propel a vehicle faster than a walk over the following bridges. The chain bridge, K street bridge over Rock Creek, N street bridge over James Creek Canal, and the Navy Yard bridge over Eastern Branch.

23. To drive or propel loaded teams over any bridge faster than a walk.

24. To drive or propel carriages or light vehicles over any bridge faster than six miles an hour.

25. To drive or propel any vehicle whose weight, including the vehicle and its load, exceeds six tons, over any bridge in the District of Columbia, without written permission from the Engineer Commissioner, D. C.

26. To stop any vehicle abreast of any other vehicle upon any street or avenue in the District of Columbia.

27. For a driver of a vehicle of whatsoever kind, located on a public stand, or engaged at any hotel, theatre, reception, ball, concert, or private party, or any other place whatever, while waiting, in any location designated by a member of the metropolitan police force, to leave his team for a distance of more than five feet.

28. To transport or convey explosives in any vehicle carrying a passenger or passengers.

29. To transport or convey explosives without first having obtained permission from the Commissioners of the District of Columbia so to do,

30. For a vehicle to convey a quantity of explosives greater than fifty lbs., without having signs prominently displayed on the sides and back thereof containing the word "explosives" in letters not less than six inches high.

31. To drive or propel any vehicle over a fire hose.

32. To drive or propel any vehicle so as to obstruct, delay, hinder or impede any fire apparatus or officials and agents thereof, when engaged in public service.

33. To operate any public vehicle for the transportation of passengers in the District of Columbia with sufficient regularity to enable the public to take passage therein at any point intermediate to the stable or stand of such vehicle, or operate such vehicle over a route sufficiently definite to enable the public to ascertain the streets and avenues on which such vehicle can be found, without a duly issued license therefor, first approved by the commissioners of the District of Columbia.

34. To operate any motor vehicle without first having obtained the proper permit.

35. To operate any motor vehicle in the District of Columbia without the proper identification numbers attached thereto.

36. To transfer the identification number from one motor vehicle to another.

37. To place or use upon auto vehicles fictitious identification numbers.

38. For any person under the age of eighteen years to operate a motor vehicle.

39. To operate any motor vehicle, without the proper lamps being kept brightly burning from one-half hour after sunset as long as the vehicle is used at night.

40. To operate any motor vehicle at night without a lamp attached to the left side of the rear of such vehicle, so as to throw a white light upon and thus make plainly visible the identification number, and to show a red light to the rear.

41. To operate any motor vehicle unless same is equipped with a suitable lock with which to lock the starting lever, throttle, or switch by which the vehicle is set in motion.

42. To leave any motor vehicle unattended upon the streets, avenues, etc., without first having locked the lever, throttle or switch by which the vehicle may be started.

43. For a person in a state of intoxication or in other respects incapable to operate or attempt to operate any motor vehicle.

44. To drive or propel any vehicle so as to delay or hinder the operating of street cars upon their respective tracks, except vehicles of

the fire, police, water and health departments and hospital ambulances who shall have the right of way.

45. To drive or propel any vehicle upon any street or avenue which has been closed to travel by order of the Commissioners of the District of Columbia.

48. For drivers of vehicles not to make way for pedestrians at street crossing.

49. To drive or ride on any other part of Rock Creek Park than the roads or bridle paths.

50. Travel on public streets shall be regulated at all intersecting crossings by allowing the right of way to those going north or south.

51. Vehicles of the police, fire and health and water departments and hospital ambulances have the right of way on the public streets.

52. Pedestrians have the right of way at street crossings.

FLORIDA.

ACT OF MAY 11, 1905.

- § 1. Registration—Fee.
- 2. Record of Registrations—Issuance of Certificate.
- 3. Equipment—Signaling Device—Lamps—Display of Number—Certificate to Be Carried.
- 4. Transfer of Registered Vehicle—Fee.
- 5. Noncompliance with Above Provisions—Penalty.
- 6. Speed—Regard to Traffic.
- 7. Speed at Curves, Bridges, Crossways.
- 8. Approaching Pedestrians or Horses—Warning—Care.
- 9. Stopping on Signal—Care—Stopping Motor.
- 10. Stopping in Case of Accident—Disclosing Identity.
- 11. Races—Setting Aside Highway.
- 12. Chauffeur's License—Fee—Number.
- 13. Operation of Vehicle Conditioned upon Procurement of License.
- 14. Civil Actions Not Abridged.
- 15. Penalties—Excessive Speed, etc.
- 16. Penalties—Other Violations.
- 17. Arrest of Offenders—Trial—Bail.
- 18. Acts Repealed Hereby.
- 19. Disposition of Fees.
- 20. Nonresidents Licensed Elsewhere.

An Act regulating the running of automobiles or motor vehicles on the public roads or highways in the State of Florida.

[Act approved May 11, 1905; Laws 1905, c. 5437.]

Be it enacted by the legislature of the state of Florida:

§ 1. [*Registration—Fee*].—All persons owning or operating vehicles propelled by any power other than muscular power, excepting such motor vehicles as run only upon rails or tracks, shall file with the secretary of state of the State of Florida the name of owner, with a brief description of the motor vehicle, including the horse power and make of such "motor vehicle," in a blank form to be furnished by the secretary of state for identification. The filing of registration fee shall be two dollars.

§ 2. [*Record of Registrations—Issuance of Certificate*].—The secretary of state shall thereupon enter of record in a book to be kept by him for that purpose, the name of the owner, the number, and kind of motor vehicle registered, and shall issue to the owner or operator thereof a certificate of registration.

§ 3. [*Equipment—Signaling Device—Lamps—Display of Number—Certificate to Be Carried*].—Every such registered motor vehicle shall, while in use on a public road or highway, be provided by the owner with a suitable bell, horn or whistle to be used as a signal. They shall likewise be provided with two lamps which shall be lighted between sunset and sunrise when in use on the public highways of the state. Every such motor vehicle shall also have displayed on the back of such vehicle, in such manner as to be plainly visible, numbers to be in Arabic numerals of not less than three inches long and two inches wide, and the owner or person operating such vehicle shall at all times when using the same carry with them the certificate of registration or permit issued by the secretary of state.

§ 4. [*Transfer of Registered Vehicle—Fee*].—In case of sale or exchange of registered motor vehicles, the person becoming owner thereof shall have such transfer entered on the records of the secretary of state, and shall pay a fee of two dollars therefor.

§ 5. [*Noncompliance with Above Provisions—Penalty*].—Any person failing to comply with sections 1, 2, 3 and 4 of this act shall be guilty of a misdemeanor, and upon conviction be fined not exceeding one hundred dollars.

§ 6. [*Speed—Regard to Traffic*].—No person shall operate any such registered vehicle on a public highway at a rate of speed greater than is proper or reasonable, having due regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or the safety of any property.

§ 7. [*Speed at Curves, Bridges, Crossways*].—Upon approaching any sharp curve, bridges, fills and intersections of or crossings of other

roads, the person operating a motor vehicle required to be registered shall not run the same at a rate of speed exceeding four miles per hour, and shall at all times while on the public highways have said motor vehicle under perfect control.

§ 8. [*Approaching Pedestrians or Horses—Warning—Care*].—Upon approaching a person walking in the roadway of a public highway, or a horse or horses, or other draft animals, being ridden, led or driven thereon, a person operating any such registered motor vehicle shall give ample signal or warning of its approach, and use every reasonable precaution to insure the safety of such person or animal, and, in case of horses or other draft animals, to prevent frightening the same.

§ 9. [*Stopping on Signal—Care—Stopping Motor*].—Any person operating any such registered motor vehicle shall, at request or on signal by putting up the hand, from a person riding, leading or driving a restive horse or horses or other draft animals, bring such motor vehicle immediately to a stop, and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided that, in case such horse or animal appears badly frightened or the person operating such motor vehicle is requested so to do, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others.

§ 10. [*Stopping in Case of Accident—Disclosing Identity*].—In case of accident to a person or property on the public highways, due to the operation thereon of any such registered motor vehicle, the person operating such vehicle shall stop, and, upon request of a person injured, or any person present, give such person his name and address, and if not the owner, the name and address of such owner.

§ 11. [*Races—Setting Aside Highway*].—Boards of county commissioners may, notwithstanding the other provisions of this act, upon application by reputable citizens, set aside for a given time a specified public highway for speed tests or races, to be conducted under proper restrictions for the safety of the public.

§ 12. [*Chauffeur's License—Fee—Number*].—Every person hereafter desiring to operate any such registered motor vehicle as a chauffeur shall file in the office of the secretary of state, on a blank to be supplied by such secretary, a statement which shall include his name and address and the trade name and motive power of the motor vehicle he is able to operate, and shall pay a registration fee of two dollars. The secretary of state shall thereupon file such statement in his office, register such chauffeur in a book to be kept by him for that purpose, and assign him a number.

§ 13. [*Operation of Vehicle Conditioned upon Procurement of License*].—No person shall operate a motor vehicle required to be registered upon the public highways after sixty days after this act takes effect, unless such person can produce a certificate of registration issued by the secretary of state, and shall have complied in all respects with the requirements of this act.

§ 14. [*Civil Actions Not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from careless or negligent use of the public highways by a motor vehicle or its owner or employee or agent.

§ 15. [*Penalties—Excessive Speed, etc.*].—The violation of any of the provisions of sections 6, 7, 8, 9, and 10 of this act shall be deemed a misdemeanor, punishable by a fine not exceeding one hundred dollars for the first offense, and punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding thirty days, or both, for a second offense, and punishable by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars and imprisonment not exceeding sixty days for a third or subsequent offense.

§ 16. [*Penalties—Other Violations*].—The violation of any other section of this act shall be punished by a fine not exceeding twenty-five dollars for the first offense, a fine not less than twenty-five dollars nor more than fifty dollars for a second offense, and a fine not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding ten days, or both, for a third or subsequent offense.

§ 17. [*Arrest of Offenders—Trial—Bail*].—In case the owner or person operating a motor vehicle shall be taken into custody because of a violation of any provision of this act, he shall be forthwith taken before an accessible justice of the peace or county judge, and be entitled to immediate hearing; and if such hearing cannot then be had, be released from custody on giving a good and sufficient bond to appear and answer for such violation, at such time and place as shall then be designated, secured by the sum equal to the maximum fine for the offense with which he is charged, or in lieu thereof, by leaving the motor vehicle, being operated by such person, with such officer as may have the accused person in charge.

§ 18. [*Acts Repealed Hereby*].—All acts and parts of acts inconsistent herewith or contrary hereto are, so far as they are inconsistent or contrary, hereby repealed.

§ 19. [*Disposition of Fees*].—All moneys accruing from the fees of this act shall go into the general revenue fund of the state.

§ 20. [*Nonresidents Licensed Elsewhere*].—Owners of automobiles who have paid a license in any other state shall upon exhibition of

such license be exempt from paying a license in this state, for **thirty** days after said automobiles have been brought into this state.

GEORGIA.

ACT OF AUG. 13, 1910.

- § 1. Use of Vehicle Conditioned upon Compliance Herewith.
2. Registration—Fee—Seal.
 3. Number Plate—Display.
 4. Lights—Illumination of Plate.
 5. Speed—Regard to Traffic—Approaching Bridges, Curves, Hills, Crossways, etc.
 6. Approaching Pedestrians or Horses—Warning—Care.
 7. Stopping on Signal—Care—Stopping Motor.
 8. Transfer of Registered Vehicle.
 9. Driving While Intoxicated—Age and Competency of Drivers—Operating Vehicle without Authority.
 10. Civil Actions Not Abridged.
 11. Equality of Rights on Highways—Impeding Vehicle by Glass, Tacks, etc.
 12. Municipal Ordinances.
 13. Nonresidents—Vehicles Registered Elsewhere.
 14. Disposition of Fees.
 15. Penalties.
 16. Acts Repealed Hereby.

An Act to regulate the running of automobiles, locomobiles, and other vehicles and conveyances of like character propelled by steam, gas, gasoline, electricity, or any power other than muscular power, upon the public and private roads of the State of Georgia; to provide for the registration and numbering of the same; to provide for and regulate the use of lights thereon; to provide uniform rules regulating the running and speed thereof; to prohibit intoxicated persons or persons under sixteen years of age from operating them; to prohibit the operation of an automobile without authority of the owner; to provide penalties for the violation of any of the provisions of this Act, and for other purposes.

[Act approved Aug. 13, 1910; Acts 1910, p. 90.]

§ 1. [Use of Vehicle Conditioned upon Compliance Herewith].—Be it enacted by the General Assembly of the State of Georgia, and it is hereby enacted by authority of the same, That from and after September 1, 1910, it shall be unlawful for any person or persons, except

in accordance with the provisions of this Act, to run, drive, or operate any automobile, locomobile, or other vehicle or conveyance of like character, propelled by steam, gas, gasoline, electricity, or any power other than muscular power, and which said vehicle shall hereafter be called machines in this Act, upon or along any public road, street, alley, highway, avenue, turnpike, or any private road or way generally used by the public of this state, except and until such person or persons shall comply with the provisions of this Act.

§ 2. [*Registration—Fee—Seal*].—Be it further enacted by the authority aforesaid, That every person now owning or hereafter acquiring any such machine shall, for every machine owned by him, file in the office of the secretary of state a statement of his name and address with a brief description of the machine to be registered, including the name of the maker, factory number, style of machine and motor power, on a blank to be prepared and furnished for that purpose, and he shall at the same time pay to the secretary of state the sum of two dollars (\$2.00) for each machine registered, also that the State registration shall be in lieu of all municipal licenses or registrations. The secretary of state shall thereupon file such statement in his office, register such machine in a book or index to be kept for that purpose and assign it a distinctive number, and shall forthwith on such registration issue and deliver to the owner of such machine a seal of aluminum or other suitable metal, circular in form and approximately two inches in diameter, having stamped thereon "Registered Motor Vehicle No. ——— Ga., Motor Vehicle Law," with the registration number inserted therein, which seal shall at all times be conspicuously displayed on said machine.

§ 3. [*Number Plate—Display*].—Be it further enacted by the authority aforesaid, That the secretary of state shall also furnish to each owner, in addition to the circular seal mentioned in section 2, a number plate bearing the same number as the seal, followed by the letters "Ga." and of the same material as the seal, the number to be in Arabic numerals, not less than three inches in height and each stroke not less than one-half inch in width, which shall at all times be displayed on the rear of the machine in such manner as to be plainly visible.

§ 4. [*Lights—Illumination of Plate*].—Be it further enacted by the authority aforesaid, That from one hour after sunset to one hour before sunrise, there shall be displayed on the front of every machine while being operated or driven along or upon any of the highways named in this act, at least one white light, throwing a bright light at least one hundred feet in the direction in which the machine is going, and shall also exhibit on the rear of each machine at least one red light, which shall effectually illuminate the number tag on the rear.

§ 5. [*Speed—Regard to Traffic—Approaching Bridges, Curves, Hills, Crossways, etc.*].—Be it further enacted by the authority aforesaid, That no person shall operate a machine on any of the highways of this state as described in this Act at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of such highway, or so as to endanger the life or limb of any person or the safety of any property, and upon approaching a bridge, dam, high embankment, sharp curve, descent, or crossing of intersecting highways and railroad crossings, the person operating a machine shall have it under control and operate it at a speed not greater than six miles per hour.

§ 6. [*Approaching Pedestrians or Horses—Warning—Care*].—Be it further enacted by the authority aforesaid, That upon approaching a pedestrian in a roadway or highway as described in this Act, or a horse or horses or other draft animals being ridden or driven thereon, the person operating the machine shall give reasonable warning of its approach by the use of a bell, horn, gong, or other signal and use every reasonable precaution to insure the safety of such person or animal, and in the case of horses or other draft animals, to prevent frightening the same.

§ 7. [*Stopping on Signal—Care—Stopping Motor*].—Be it further enacted by the authority aforesaid, that a person operating a machine shall, at request or on signal by putting up the hand or other sign of distress of a person riding, leading or driving a restive horse or other draft animal, bring such machine immediately to a stop, and if traveling in the opposite direction remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in passing such horse or animal, and in case such horse or animal appears frightened or the person operating such machine is requested to do so, such person shall cause the motor of the machine to cease running so long as shall be reasonably necessary to insure the safety of others.

§ 8. [*Transfer of Registered Vehicle*].—Be it further enacted by the authority aforesaid, That should the owner of a machine sell or otherwise dispose of it after having registered the machine as provided in section 2 of this Act, it shall be the duty of the purchaser to procure a new seal and number in accordance with the provisions of this Act, and there shall be one number given to each machine.

§ 9. [*Driving While Intoxicated—Age and Competency of Drivers—Operating Vehicle without Authority*].—Be it further enacted by the authority aforesaid, That it shall be unlawful for any person who is intoxicated or under the age of sixteen years at the time, unless such minor shall have previously had twelve months experience in the operation of automobiles and is accompanied by the owner of the

machine at the time, to propel or operate a machine on any of the highways described in this Act, of this state. No person shall operate an automobile without the consent and by authority of the owner, and any person so doing shall be guilty of a misdemeanor and punishable therefor.

§ 10. [*Civil Actions Not Abridged*].—Be it further enacted by the authority aforesaid, That nothing in this Act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property, resulting from the negligent use of the highways described in this Act, by a machine or its owner or his employee or agent.

§ 11. [*Equality of Rights on Highway—Impeding Vehicle by Glass, Tacks, etc.*].—Be it further enacted by the authority aforesaid, That every owner or operator of a machine shall have equal rights upon the public highways of this state with all other users of such highways, and no person or persons shall throw glass, nails, tacks or other obstruction upon the public highways used and traversed by automobiles or unreasonably obstruct or impede the right of travel of such owner or operator while operating, propelling or driving such machine, and no person or persons shall give any signal or sign of distress or danger, or call for assistance upon a person lawfully operating any such machine on any of the public highways of this state, maliciously and without reasonable cause for so doing.

§ 12. [*Municipal Ordinances*].—Be it further enacted by the authority aforesaid, That nothing contained in this Act shall be construed as changing or interfering with any regulation or ordinance which has heretofore or may hereafter be adopted by any municipality of this state regulating the running and operating of the machines described in this Act, provided such regulation or ordinance is not in conflict with the provisions of this Act.

§ 13. [*Nonresidents—Vehicles Registered Elsewhere*].—Be it further enacted by the authority aforesaid, That the provisions of this Act requiring registration with the secretary of state shall not apply to motor vehicles owned and operated by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as in this Act provided; provided, that a stay of thirty days in this state by any person herein described shall make such person liable to the fee as fixed in section 2 of this Act.

§ 14. [*Disposition of Fees*].—Be it further enacted by the authority aforesaid, That of the two dollars to be paid for the certificate a

sufficient amount thereof shall be used in providing these certificates, and the remainder thereof shall be paid into the state treasury.

§ 15. [*Penalties*].—Be it further enacted by the authority aforesaid, that any one violating any one of the provisions of this Act shall, upon conviction thereof, be punished as prescribed in section 1039 of volume 3 of the Code of Georgia 1895.

§ 16. [*Acts Repealed Hereby*].—Be it further enacted by the authority aforesaid, That all laws and parts of laws in conflict with this Act be, and the same are, hereby repealed.

HAWAII.

ACT OF APRIL 5, 1905; REV. LAWS, § 3124.

§ 1. Revised Laws Amended.

§ 3124. Vehicles to Display Lights—Penalty.

§ 2. Time of Taking Effect.

ACT OF APRIL 26, 1905.

§ 1. Revised Laws Amended.

§ 643. Driving Across Bridges—Speed—Penalty.

§ 2. Time of Taking Effect.

ACT OF APRIL 17, 1907.

§ 1. Revised Laws Amended.

§ 3115. Driving Furiously or Heedlessly—Penalty.

§ 2. Revised Laws Amended.

§ 3116. Driving Furiously or Heedlessly—Danger to Person.

§ 3. Time of Taking Effect.

ACT OF APRIL 23, 1907.

§ 1. Revised Laws Amended.

§ 1379a. Garage Keepers—License—Fee.

ACT OF MARCH 22, 1909.

§ 1. Garage Defined.

§ 2. Time of Taking Effect.

An Act to amend section 3124 of the Revised Laws of Hawaii.

[Approved April 5, 1905; Laws 1905, Act 27.]

Be it enacted by the Legislature of the Territory of Hawaii:

§ 1. [*Revised Laws Amended*].—That section 3124 of the Revised Laws of Hawaii be and the same is hereby amended so as to read as follows:

§ 3124. [*Vehicles to Display Lights—Penalty*].—The rider and user of every automobile, bicycle, tricycle or vehicle of a similar nature, which shall be ridden or used within the Territory of Hawaii after dark, shall cause a sufficient light or lights to be kept burning on every such vehicle when in use during the hours of darkness. Any person violating the provisions of this section shall, upon conviction, be fined in a sum not exceeding ten dollars for every such offense.

§ 2. [*Time of Taking Effect*].—This Act shall become law from and after the date of its approval.

An Act amending section 643 of the Revised Laws of Hawaii, relating to driving or riding across bridges.

[Act approved April 26, 1905; Laws 1905, Act 60.]

Be it enacted by the Legislature of the Territory of Hawaii:

§ 1. [*Revised Laws Amended*].—Section 643 of the Revised Laws of Hawaii is hereby amended so as to read as follows:

§ 643. [*Driving Across Bridges—Speed—Penalty*].—No cart, wagon, dray or carriage drawn by oxen, horses or mules, and no rider of horse or mule shall pass over any wooden or iron bridge in this territory of ten feet span or more, at a pace faster than a walk; and no automobile shall pass over any such bridge at a speed greater than four (4) miles and hour, under a penalty of five dollars (\$5.00), recoverable against the driver of such cart, wagon, dray, carriage or automobile, or rider of such horse or mule; provided, however, that no such penalty shall be imposed, except in cases where signs calling attention to this section shall have been placed on such bridges.

§ 2. [*Time of Taking Effect*].—This Act shall take effect from the date of its approval.

An Act relating to furious and heedless driving or riding, amending sections 3115 and 3116 of the Revised Laws.

[Act approved April 17, 1907; Laws 1907, Act 68.]

Be it enacted by the Legislature of the Territory of Hawaii:

§ 1. [*Revised Laws Amended*].—Section 3115 of the Revised Laws is hereby amended by inserting therein, immediately after the word

"any" in line 3, the words "carriage, wagon, buggy, omnibus, cart, bicycle, automobile, motor cycle, locomobile, or other," so that said section, as amended, shall read as follows:

§ 3115. [*Driving Furiously or Heedlessly—Penalty.*].—Whoever furiously or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any carriage, wagon, buggy, omnibus, cart, bicycle, automobile, motor cycle, locomobile, or other vehicle, and thereby imminently endangers the personal safety of any person, shall be punished by a fine not less than five dollars nor exceeding five hundred.

§ 2. [*Revised Laws Amended.*].—Section 3116 of the Revised Laws is hereby amended by inserting therein, immediately after the word "any" in line 3, the words "carriage, wagon, buggy, omnibus, cart, bicycle, automobile, motor cycle, locomobile, or other" so that said section, as amended, shall read as follows:

§ 3116. [*Driving Furiously or Heedlessly—Danger to Person.*].—Whoever furiously or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any carriage, wagon, buggy omnibus, cart, bicycle, automobile, motor cycle, locomobile, or other vehicle, though at the time the personal safety of any person be not endangered thereby, shall be punished by fine not less than five dollars nor exceeding one hundred."

§ 3. [*Time of Taking Effect.*].—This Act shall take effect from the date of its approval.

An Act to amend chapter 102 of the Revised Laws of Hawaii by adding thereof ten sections to be known as § 1397a, etc.

[Act approved April 23, 1907; Laws 1907, Act 96.]

Be it enacted by the Legislature of the Territory of Hawaii:

§ 1. [*Revised Laws Amended.*].—Chapter 102 of the Revised Laws of Hawaii is hereby amended by adding ten sections thereto to be known as § 1379a, [etc.]

§ 1397a. [*Garage Keepers—License—Fee.*].—The annual fee for a license to engage in or carry on a garage business shall be fifty dollars for the District of Honolulu and twenty-five dollars for each other taxation district of the territory.

An Act to define the meaning of the word "garage" as used in section 1 of Act 96 of the Session Laws of 1907 amending chapter 102 of the Revised Laws of Hawaii.

[Act approved March 22, 1909; Laws 1909, Act 31.]

Be it enacted by the Legislature of the Territory of Hawaii:

§ 1. [*Garage Defined*].—The word "garage" as used in section 1 of Act 96 of the Session Laws of 1907 amending chapter 102 of the Revised Laws of Hawaii shall, and is hereby designated to mean "a repository, storage room or repair shop for automobiles."

2. [*Time of Taking Effect*].—This act shall take effect from and after the date of its approval.

ILLINOIS.

ACT OF MAY 28, 1907.

- § 1. Title of Act—Definition of Motor Vehicle.
- 5. Registration of Vehicles—Manufacturers and Dealers.
- 6. Display of Another or Fictitious Number.
- 8. Vehicles of Nonresidents Registered Elsewhere.
- 9. Equipment—Brakes—Signaling Device—Leaving Vehicle with Motor Running.
- 11. Racing upon Highway.
- 12. Horse Becoming Frightened—Stopping.
- 13. Local Regulations.
- 15. Chauffeur's Badge—Form—Display—Transfer.
- 16. Chauffeurs—Driving without Permission—Receiving Rebates—Penalties.
- 17. Approaching Pedestrians or Horses—Warning—Stopping and Disclosing Identity in Case of Accident.
- 18. Civil Actions not Abridged—Proof of Excessive Speed—Prima Facie Case.
- 20. Definitions—Public Highways—Local Authorities.
- 21. Acts Repealed.

ACT OF JUNE 10, 1909.

- § 1. Act of May 28, 1907, Amended.
- 2. Registration of Vehicles—Application—Seals—Certificates of Registration.
- 3. Display of Number.
- 7. Sale of Vehicle—Notice—Reregistration.
- 14. Chauffeurs—License—Fee.

ACT OF JUNE 11, 1909.

- § 1. Act of May 28, 1907, Amended.

§ 4. Lights—Display of Number.

10 Speed—Closely Built up Sections—Regard to Traffic.

19. Penalties—Fine—Revocation of License—Disposition of Fines.

An Act defining motor vehicles and providing for the registration of the same and uniform rules regulating the use and speed thereof, and repealing an act entitled, "An Act to regulate the speed of automobiles and other horseless conveyances upon the public streets, roads and highways of the State of Illinois," approved May 13, 1903, in force July 1, 1903, and to repeal all other acts or parts of acts inconsistent herewith.

[Act filed May 28, 1907; Laws 1907, p. 510.]

Be it enacted by the people of the State of Illinois, represented in the General Assembly:

§ 1. [Title of Act—Definition of Motor Vehicle].—That the short title of this act shall be "Motor Vehicle Law." Whenever the term motor vehicle is used in this act, it shall be construed to include automobiles, locomobiles, and all other vehicles propelled otherwise than by muscular power, except motor bicycles, traction engines and road rollers, the cars of electric and steam railways and other motor vehicles running only upon rails or tracks, but nothing in this Act shall be construed to apply to, or affect, bicycles or tricycles or such other vehicles as are propelled exclusively by muscular pedal power.

§§ 2, 3. [Superseded by Act of June 10, 1909.]

§ 4. [Superseded by Act of June 11, 1909.]

§ 5. [Registration of Vehicles—Manufacturers and Dealers].—Each manufacturer of, and dealer in, motor vehicles, doing business in this state, shall register one vehicle of each class manufactured or dealt in by him, and if a number corresponding to the number of the registration seal issued to such manufacturer or dealer is displayed upon every vehicle of the class for which it was issued as provided in this section, while such vehicle is being operated by such manufacturer or dealer, or his agent, or representative, on the public highway, it shall be deemed a sufficient compliance with sections two, three and four of this Act, until such vehicle shall be sold or let for hire, provided that electrically driven motor vehicles shall constitute a class, those propelled by steam power a class, those propelled by gasoline explosive type engines a class, and that nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for his private use or for hire. No motor vehicle shall be used or operated upon the public highways of this state after this Act shall take effect unless the owner shall have complied in all respects with sections two, three, four and five of this act.

§ 6. [*Display of Another or Fictitious Number*].—No motor vehicle shall be used or operated upon the public highways of this state after this Act shall take effect which shall display thereon a number belonging to any other vehicle or fictitious registration number: Provided, however, that this section shall not be construed to prohibit any other number being displayed for any lawful purpose upon a motor vehicle in addition to the number of registration seal issued by the secretary of state as aforesaid.

§ 7. [Superseded by Act of June 10, 1909.]

§ 8. [*Vehicles of Nonresidents Registered Elsewhere*].—The provisions of sections two, three, four, five or six of this Act shall not apply to any motor vehicle owned by nonresidents of this state, provided the owner thereof has complied with any law requiring the registration of motor vehicles, or the names of the owners thereof, in force in the city, state, territory or federal district of his residence, provided the registration number showing the initial or abbreviation of the name of such city, state, territory or federal district shall be displayed on such vehicle, substantially as in section three of this Act provided: And, provided, that nothing in this section contained shall be so construed as to exempt nonresident owners and drivers of automobiles from complying with the first part of section four of this Act requiring the carrying of lighting lamps as in said section provided.

§ 9. [*Equipment—Brakes—Signaling Device—Leaving Vehicle with Motor Running*].—Every motor vehicle while in use on a public highway shall be provided with good and sufficient brakes and also with a suitable bell, horn or other signal device. No part of the machinery of any motor vehicle shall be left running while such vehicle is left standing without an attendant on any public highway in this state.

§ 10. [Superseded by Act of June 11, 1909.]

§ 11. [*Racing upon Highway*].—Any person driving a motor vehicle or a motor bicycle upon a public highway in this state in a race, shall, upon conviction, be fined in a sum not exceeding \$200.

§ 12. [*Horse Becoming Frightened—Stopping*].—Whenever it shall appear that any horse ridden or driven by any person upon any of said streets, roads or highways is about to become frightened by the approach of any such motor vehicle it shall be the duty of the person driving or conducting such motor vehicle to cause the same to come to a full stop until such horse or horses shall have passed.

§ 13. [*Local Regulations*].—No owner of a motor vehicle who shall have obtained a certificate from the secretary of state as hereinbefore provided shall be required to obtain any other license or permit to use or operate the same, nor shall such owner be required to display upon his motor vehicle any other number than the number of the regis-

tration seal issued by the secretary of state, or excluded or prohibited from, or limited in the free use of his said motor vehicle or vehicles, nor limited as to speed upon any public street, avenue, road, turnpike, driveway, parkway, or any other public place, at any time when the same is or may hereafter be opened to the use of persons having or using other vehicles, nor be required to comply with other provisions or conditions as to the use of said motor vehicles except as in this Act provided: Provided, however, that nothing in this section contained shall be construed to apply to, or include, any speedway created, provided for, or maintained by the local authorities of any city, village, town or other municipal corporation within the State: And, provided further, that the local authorities having jurisdiction over the public parks and boulevards connecting or pertaining to the same shall not by the terms of this Act be prohibited from adopting and enforcing such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated within or upon any such parks, parkways or boulevards, provided the rate of speed of motor vehicles fixed by such ordinances, rules or regulations shall not be lower than the rate fixed for other vehicles and provided such authorities shall, by signs conspicuously placed, indicate the rate of speed permitted by such ordinances, rules or regulations: And, provided, further, that motor vehicles may be excluded from any cemetery or grounds used for the burial of the dead, by the authorities having jurisdiction over the same. Except as in this section provided, no city, town or village, or other municipality, shall have power to make any ordinance, by-laws or resolution limiting or restricting the use or speed of motor vehicles, and no ordinance, by-law or resolution heretofore or hereafter made by any city, village or town, or other municipal corporation within the state, by whatever name known or designated, in respect to or limiting the use or speed of motor vehicles shall have any force, effect or validity, and they are hereby declared to be of no validity or effect: Provided, that nothing in this Act contained shall be construed as affecting the power of municipal corporations to make and enforce ordinances, rules and regulations affecting motor vehicles which are used within their limits for public hire.

§ 14. [Superseded by Act of June 10, 1909.]

§ 15. [*Chauffeur's Badge—Form—Display—Transfer*].—The secretary of state shall forthwith, upon such registration and without other fee, issue and deliver to such chauffeur a badge of aluminum or other suitable metal which shall be oval in form and the greater diameter of which shall not be more than two inches, which said badge shall have stamped thereon the words, "Registered Chauffeur No. — Illinois Motor Vehicle Law," with the registration number inserted

therein, and which badge shall thereafter be worn by such chauffeur and pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways; and no chauffeur who shall not have complied with the provisions of this Act shall operate a motor vehicle upon the public highways after this Act takes effect, and no chauffeur shall voluntarily permit any other person to wear his badge, nor shall any person operating a motor vehicle wear any fictitious badge or any badge belonging to any other person.

§ 16. [*Chauffeurs—Driving without Permission—Receiving Rebates—Penalties*].—No chauffeur or other person shall drive or operate any motor vehicle upon any street or highway in this state in the absence of the owner of such motor vehicle without said owner's consent; and no chauffeur or other person having the care of a motor vehicle for the owner shall receive or take directly or indirectly any bonus, discount or other consideration for the purchase of supplies or parts for such motor vehicle, or for work or labor done thereon by others; and no person furnishing such supplies or parts, work or labor, shall give or offer any such chauffeur or other person having the care of a motor vehicle for the owner thereof, either directly or indirectly any bonus, discount or other consideration thereon. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined a sum not exceeding two hundred dollars (\$200) or imprisonment in the county jail for a period not exceeding six (6) months or both, in the discretion of the court.

§ 17. [*Approaching Pedestrians or Horses—Warning—Stopping and Disclosing Identity in Case of Accident*].—Upon approaching a person walking upon or along a public highway, or a horse or horses, or other draft animals, being ridden, led, or driven thereon, the operator of a motor vehicle or motor bicycle shall give reasonable warning of his approach and use every reasonable precaution to avoid injuring such person, or frightening such horse, horses or other draft animals, and in case of any injury to a person or property on the public highways, due to the presence or operation of a motor vehicle, the operator of such vehicle shall stop and, upon request of a person injured, or any person present, give his name and address, and if not the owner of such motor vehicle, the name and address of such owner.

§ 18. [*Civil Actions Not Abridged—Proof of Excessive Speed—Prima Facie Case*].—Nothing in this Act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from the negligent use of the highways by the driver or operator of a motor vehicle or its owner or his employee or agent. And in any action

brought to recover any damages for injury either to person or property caused by running any motor vehicle at a greater rate of speed than designated in section 10, the plaintiff or plaintiffs shall be deemed to have made out a prima facie case by showing the fact of such injury and that such person or persons driving such motor vehicle or vehicles was at the time of such injury running the same at a speed in excess of that mentioned in said section 10, or at any unreasonable rate of speed as set forth in clause C of said section.

§ 19. [Superseded by Act of June 11, 1909.]

§ 20. [*Definition—Public Highways—Local Authorities*].—Public highways shall include any highway, county road, state road, public street, avenue, alley, park, parkway, driveway or public place in any county, city, village, incorporated town or towns. Local authorities shall include all officers of counties, cities, villages, incorporated towns, towns or road districts, as well as all boards, committees and other public officials of such counties, cities, villages, incorporated towns, towns or road districts.

§ 21. [*Acts Repealed*].—An Act to regulate the speed of automobiles and other horseless conveyances upon the public streets, roads and highways of the State of Illinois, approved May 13, 1903, in force July 1, 1903, is hereby repealed, and all other acts or parts of acts inconsistent herewith or contrary hereto are, so far as they are inconsistent or contrary, hereby repealed.

An Act to amend sections 2, 3, 4, 7 and 14 of an Act entitled "An Act defining motor vehicles and providing for the registration of the same and uniform rules regulating the use and speed thereof, and repealing an act entitled, 'An Act to regulate the speed of automobiles and other horseless conveyances upon the public streets, roads and highways of the State of Illinois,' approved May 13, 1903, in force July 1, 1903, and to repeal all other acts or parts of acts inconsistent herewith," filed May 28, 1907, in force July 1, 1907.

[Act approved June 10, 1909; Laws 1909, p. 336.]

Be it enacted by the people of the State of Illinois represented in the General Assembly:

§ 1. [*Act of May 28, 1907, Amended*].—That sections 2, 3, 4, 7 and 14 of an Act entitled, "An Act defining motor vehicles and providing for the registration of the same and uniform rules regulating the use and speed thereof, and repealing an act entitled 'An Act to regulate the speed of automobiles and other horseless conveyances upon the public streets, roads and highways of the State of Illinois,' approved May 13, 1903, in force July 1, 1903, and to repeal all other

acts or parts of acts inconsistent herewith," filed May 28, 1907, in force July 1, 1907, be and the same are hereby amended to read as follows:

§ 2. [*Registration of Vehicles—Application—Seals—Certificates of Registration*].—Every owner of a motor vehicle which shall be driven in this state shall, except as otherwise provided in this Act, within ten days after he becomes the owner of such vehicle, file in the office of the secretary of state an application properly sworn to, setting forth his name and address, with a brief description of the vehicle to be registered, including the name of the maker, factory number, style of vehicle and motor power, and the amount of such motor power stated in figures of horse power, on a blank to be prepared and furnished by such secretary of state for that purpose, and shall pay to said secretary of state a registration fee of two dollars per annum for each motor vehicle owned by the person making such application. Said registration shall be made on the date the application is received and filed by the secretary of state and shall expire one year thereafter. Upon the filing in the office of the secretary of state of said application, as hereinbefore provided, the secretary of state, or his duly authorized agent, shall, without further fee, assign to such motor vehicle, as described in such application, a distinctive number, and shall issue to the owner of such motor vehicle, as it is described in the application filed, a certificate of registration, which certificate shall be in the form of a card, which may be carried in the pocket, and which certificate shall contain the distinctive number so assigned to such motor vehicle, the name and address of the owner, a brief description of such motor vehicle, stating the name of the manufacturer, the motor power, and the amount of such motor power stated in figures of horse power. The secretary of state shall also issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal which shall be circular in form and not to exceed two inches in diameter, having stamped thereon the words, "Registered Motor Vehicle No. — Ill. Motor Vehicle Law," with the registration number inserted therein, which seal shall thereafter at all times be affixed to the motor vehicle to which such number has been assigned. Duplicate certificates of registration will be issued upon the payment of a fee of 50 cents and the filing in the office of the secretary of state an affidavit to the effect that the original certificate of registration was lost, stolen or destroyed. The secretary of state shall cause the name of such owner, with his address, registration number and date of the filing of application and the description of such motor vehicle or motor vehicles to be entered in alphabetical order of the owner's name, in a book to be kept for such purpose in the office of said secretary of

state: Provided, that this section shall not apply to manufacturers of or dealers in, motor vehicles in this state, except as to vehicles kept by such manufacturers or dealers for private use or for public hire. Any person who has registered his motor vehicle in this state prior to the time when this Act shall take effect shall be exempt from the provisions of this section until the expiration of one year from the date of said registration. The secretary of state shall, once a year, and oftener if he deems necessary, print and mail to the clerks of all counties in the state lists of registrations made in accordance herewith, together with the numbers of the motor vehicles and the names and addresses of the owners thereof.

§ 3. [*Display of Number*].—The owner of each motor vehicle shall have a number corresponding with the number of the certificate of registration and registration seal issued by the secretary of state, as hereinbefore provided, conspicuously displayed upon the front and back of every motor vehicle owned by him, whenever the same shall be driven or used upon the public streets, roads, turnpikes, parks, parkways, drives or other public highways in this state; such numbers to be separate Arabic numerals not less than four inches in height and each stroke to be of a width not less than one-half of an inch, and also, as part of such number, the letters ILL.; such numbers and letters shall be black on white ground and such letters to be not less than one inch in height. Said owner shall not be required to place any other marks of identity upon said motor vehicle.

§ 4. [Superseded by Act of June 11, 1909.]

§ 7. [*Sale of Vehicle—Notice—Reregistration*].—The vendor and purchaser of every motor vehicle which has been previously registered by any person other than a manufacturer or dealer shall, within ten days after such sale, join in a statement and send the same by mail to the secretary of state, together with a filing fee of fifty cents, to be paid by the vendor, and thereupon said registration shall cease to apply to the motor vehicle so sold; and the purchaser of such motor vehicle shall register the same as in case of an original registration, and another and different number than the original registration number shall be assigned to said motor vehicle, and the said original registration number shall be canceled by the secretary of state.

§ 14. [*Chauffeurs—License—Fee*].—Every person hereafter desiring to operate a motor vehicle as chauffeur, which is hereby defined to mean any person operating a motor vehicle as mechanic or employ[ee] or for hire, shall file in the office of the secretary of state, on a blank to be supplied by such secretary of state, an application properly sworn to, which shall include his name and address and motor power of the motor vehicle or vehicles he is competent to operate, and shall pay a registration fee of one dollar per annum, and thereupon the

secretary of state shall file such application in his office, register such chauffeur in a book or index to be kept for that purpose and assign to him a number. Said registration shall be made on the date the application is received and filed by the secretary of state and shall expire one year thereafter. Any person who has been registered as a chauffeur in this state prior to the time when this act shall take effect shall be exempt from the provisions of this section until the expiration of one year from the date of said registration.

An Act to amend sections 4, 10 and 19 of an act entitled, "An Act defining motor vehicles, and providing for the registration of the same, and uniform rules regulating the use and speed thereof, and repealing an act entitled, 'An Act to regulate the speed of automobiles and other horseless conveyances upon the public streets, roads and highways of the State of Illinois,' approved May 13, 1903, in force July 1, 1903, and to repeal all other acts or parts of acts inconsistent herewith," filed May 28, 1907, in force July 1, 1907.

[Act approved June 11, 1909; Laws 1909, p. 339.]

Be it enacted by the people of the State of Illinois represented in the General Assembly:

§ 1. [*Act of May 28, 1907, Amended*].—That sections 4, 10 and 19 of an act entitled, "An Act defining motor vehicles, and providing for the registration of the same, and uniform rules regulating the use and speed thereof, and repealing an act entitled, 'An Act to regulate the speed of automobiles and other horseless conveyances upon the public streets, roads and highways of the State of Illinois, approved May 13, 1903, in force July 1, 1903, and to repeal all other acts or parts of acts inconsistent herewith," filed May 28, 1907, in force July 1, 1907, be and the same are hereby amended so as to read as follows:

§ 4. [*Lights—Display of Number*].—Every motor vehicle shall carry during the period from sunset to one hour before sunrise at least two lighted lamps, showing white lights visible at least two hundred (200) feet in the direction toward which each motor vehicle is proceeding and shall also exhibit at least one lighted lamp, which shall be so situated as to throw a red light visible in the reverse direction. The identification number at the back of the vehicle, provided for in section 3, shall be permanently attached to the vehicle so that it will not swing loosely and shall be so lighted as to be plainly visible. Upon each of the glass fronts of the two first mentioned lamps, showing white lights, shall be displayed in such manner as to be plainly visible, when such lamps are lighted, the number of the certificate issued as aforesaid by the secretary of state, and in addition thereto

the letters ILL., such figures to be in separate Arabic numerals not less than one inch in height.

§ 10. [*Speed—Closely Built up Sections—Regard to Traffic*].—No person shall drive a motor vehicle or motor bicycle upon any public highway in this state at a speed greater than is reasonable and proper having regard to the traffic and the use of the way, or so as to endanger the life or limb or injure the property of any person. If the rate of speed of any motor vehicle or motor bicycle operated upon any public highway in this state where the same passes through the closely built up business portions of any incorporated city, town or village exceeds ten (10) miles an hour for a distance of one-eighth of a mile, or if the rate of speed of any motor vehicle or motor bicycle operated on any public highway in this state where the same passes through the residence portions of any incorporated city, town or village exceeds fifteen (15) miles an hour for a distance of one-eighth of a mile, or if the rate of speed of any motor vehicle or motor bicycle operated on any public highway in this state outside the closely built up business portions and the residence portions of any incorporated city, town or village exceeds twenty (20) miles an hour for a distance of one-quarter of a mile, such rates of speed shall be prima facie evidence that the person operating such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable and proper having regard to the traffic and use of the way, or so as to endanger the life or limb or injure the property of any person. If the rate of speed of a motor vehicle or motor bicycle operated on any public highway in this state in going around a corner or curve in a highway where the operator's view of the road traffic is obstructed exceeds six (6) miles an hour such rate of speed shall be prima facie evidence that the person operating such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable having regard to the traffic and the use of the way, or so as to endanger the life or limb or injure the property of any person.

§ 19. [*Penalties—Fine—Revocation of License—Disposition of Fines*].—Any person wilfully violating the provisions of this Act shall, except as otherwise provided herein, upon conviction, be fined in a sum not to exceed the amount hereinafter set forth:

For a violation of section two, twenty-five dollars.

For a violation of section three, twenty-five dollars.

For a violation of section four, twenty-five dollars.

For a violation of section five, twenty-five dollars.

For a violation of section six, twenty-five dollars.

For a violation of section seven, twenty-five dollars.

For a violation of section nine, twenty-five dollars.

For a violation of section ten, subdivision a, two hundred dollars.

For a violation of section ten, subdivision b, two hundred dollars.

For a violation of section ten, subdivision c, two hundred dollars.

For a violation of section twelve, two hundred dollars.

For a violation of section fourteen, ten dollars.

For a violation of section fifteen, fifteen dollars.

For a violation of section seventeen, one hundred dollars.

Any provision not herein specifically mentioned, one hundred dollars: Provided, that any offender who shall have been guilty of a violation of any section of this Act, and find [fined] therefor, and who shall within six months thereafter be convicted of a second violation of such section, may be fined in a sum not exceeding double the penalty herein provided for a first violation, and in addition thereto may have his certificate or license issued by the secretary of state revoked for a period not exceeding sixty days; and for a third or subsequent violation of such section within six months after the date of such second violation, the certificate of license may, in addition to the fine provided for a second offense, be revoked for a period not exceeding six months. Any person whose license shall have been revoked for a violation of any of the provisions of this Act, and who shall drive or operate a motor vehicle within the State of Illinois during the period for which his said license shall have been revoked, or any person who, having once been convicted of a failure to comply with the provisions of this Act, requiring a registration of chauffeurs, shall fail or refuse to comply with said provisions, shall be deemed guilty of a misdemeanor, and on conviction may be fined in a sum not to exceed two hundred dollars, or imprisoned in the county jail for a period not exceeding thirty days, or both, in the discretion of the court. All fines imposed for the violation of any of the provisions of this Act shall be paid to the treasurer of the highway commissioners of the township or road district in which the offense is committed, by the justice of the peace, clerk of the court or other officer to whom the amount of such fines shall be by law required to be paid by the constable, bailiff, sheriff or other officer named in any execution issued for the collection of the same; and all moneys so received by the treasurer of the highway commissioners shall be used in repairing and improving the roads within such township or road district: Provided, however, that whenever any such violations shall occur within the limits of any city, village or incorporated town, or within the jurisdiction of any board of park commissioners wherein no commissioners of highways exist or have jurisdiction, in such cases all fines imposed for the violation of any of the provisions of this Act shall be paid to the treasurer of such city, village or incorporated town, or to the park commissioners within whose jurisdiction the offense is committed, by the justice of the peace, clerk of the court or other officer, to whom the amount of such fines

shall be by law required to be paid by the constable, bailiff, sheriff or other officer named in any execution issued for the collection of the same, and all moneys so received by the treasurer of such city, village or incorporated town, or park commissioners, shall be used in repairing and improving the roads or streets within such city, village, incorporated town or park.

INDIANA.

ACT OF MARCH 6, 1905.

- § 1. "Motor Vehicles" Defined.
- 3. Local Speed Regulations.
- 4. Equipment—Brake—Signaling Device—Sounding.
- 6. Registration of Vehicles—Application—Fees—Disposition of Fees.
- 8. Vehicles Previously Registered.
- 9. Seals—Form—Display.
- 11. Registration by Manufacturers or Dealers—Display of Number.
- 12. Vehicles of Nonresidents Registered Elsewhere.
- 14. Acts Repealed.

ACT OF MARCH 12, 1907.

- § 1. Speed—Closely Built up Sections—Curves, Hills, Bridges, etc.—Lights.
- 3. Registration Numbers—Mode of Assigning.
- 4. Display of Number—Local Requirements—Motor Cycles.
- 5. Penalties—Second and Third Offenses.

ACT OF MARCH 6, 1909.

- § 2. Approaching Horses—Speed—Assistance—Rules of Road.

An Act to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles or other motor vehicles upon public highways, and providing penalties.

[Approved March 6, 1905; Acts 1905, c. 123.]

Be it enacted by the General Assembly of the State of Indiana:

§ 1. [*"Motor Vehicles" Defined*].—That the words and phrases used in this Act shall for the purpose of this Act only be construed as follows: 1. "Motor vehicles" shall include all vehicles propelled by any power other than muscular power, excepting traction engines, road rollers and such motor vehicles as run only upon rails or track.

§ 2. [Superseded by Act of March 12, 1907.]

§ 3. [*Local Speed Regulations*].—That any rate of speed provided in section two (2) of this Act shall not be diminished nor prohibited by any ordinance, rule or regulation of any municipality, board or other public authorities.

§ 4. [*Equipment—Brake—Signaling Device—Sounding*].—Any persons operating a motor vehicle shall at all times provide the same with a good and efficient brake and a suitable bell, horn, or other signal, and shall upon approaching any person or persons riding, leading or driving a horse, horses, draft animals or other farm animals upon any public highway or in any public place, signal such person or persons with said bell or horn either upon overtaking or meeting any such person or persons, giving such person or persons a reasonable time to prepare for the passing of said motor vehicle.

§ 5. [Superseded by Act of March 12, 1907.]

§ 6. [*Registration of Vehicles—Application—Fees—Disposition of Fees*].—That every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered on a blank, to be prepared and furnished by such secretary for that purpose. The filing fee shall be one dollar (\$1.00); all of which fees to be paid into the general fund of the state treasury as other fees now collected by the secretary of state are required to be paid into the treasury.

§ 7. [Superseded by Act of March 12, 1907.]

§ 8. [*Vehicles Previously Registered*].—Every person acquiring a motor vehicle shall file a like statement with the secretary of state and such secretary of state shall in like manner file such vehicle and assign it a number. If the vehicle has previously been registered such fact and number assigned it shall be set forth in the statement, and the previous registration shall be canceled, but the number of such previous registration may be assigned under the new registration.

§ 9. [*Seals—Form—Display*].—The secretary of state shall forthwith on such registration and without other fee issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form and two (2) inches in diameter, and have stamped therein the words, "Registered in the office of Secretary of State of Indiana under the Motor Vehicle Law, No. —," with the registration number inserted therein, which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 10. [Superseded by Act of March 12, 1907.]

§ 11. [*Registration by Manufacturers or Dealers—Display of Number*].—A manufacturer of or a dealer in motor vehicles shall register one (1) of each style or type to be manufactured or dealt in by him,

and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of an additional fee of fifty (50) cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with sections six (6), eight (8) and ten (10) of this Act, until such vehicle shall be sold or let for hire. Nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

§ 12. [*Vehicles of Nonresidents Registered Elsewhere*].—The provisions of sections seven (7) to ten (10), inclusive, shall not apply to motor vehicles owned and operated by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners or in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as provided by section ten (10) of this Act.

§ 13. [Superseded by Act of March 12, 1907.]

§ 14. [*Acts Repealed*].—All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

An Act to amend sections two, five, seven, ten and thirteen of an act entitled "An Act to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles and other motor vehicles upon public highways, and providing penalties," approved March 6, 1905.

[Approved March 12, 1907; Acts 1907, c. 258.]

Be it enacted by the General Assembly of the State of Indiana:

§ 1. [*Speed—Closely Built up Sections—Curves, Hills, Bridges, etc.—Lights*].—That section two (2) of the above entitled act be and the same is hereby amended to read as follows: Section 2. That any person or persons operating a motor vehicle on any public highway or in any public place shall not operate the same at any rate of speed greater than is reasonable and proper, having regard to the use in common of such highways or place or so as to endanger life or limb of any person, and in no event shall such motor vehicle be operated at a greater rate of speed than eight (8) miles an hour in the business and closely built up portions of any municipality of this State, nor more than fifteen (15) miles an hour in any other portions of such municipalities, nor more than twenty (20) miles an hour outside such municipalities. Upon approaching a bridge, dam, sharp curve, or steep

descent and also in traversing such bridge, dam, curve or descent, and upon approaching a crossing of intersecting highways, a person operating a motor vehicle shall have it under control and operate it at a speed not greater than is reasonable and proper, having regard to the safety of traffic then on such highway and of the public: Provided, further, that after dark all automobiles shall carry lighted lamps.

§ 2. [Superseded by Act of March 6, 1909.]

§ 3. [*Registration Numbers—Mode of Assigning*].—That section seven (7) of the above entitled act be and the same is hereby amended to read as follows: Section 7. The Secretary of State shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose and assign it a number in the order of filing. Such numbers shall be determined and arranged as follows: Numbers shall be in series of one hundred, of which the first shall consist of the numbers A1, A2, A3, and so on to A100 inclusive; the second series shall consist of the numbers B1, B2, B3 and so on to B100 inclusive; the following series shall be arranged in the same way, taking each letter in the alphabet in order until all such letters have been so used; the twenty-sixth will thus consist of the numbers Z1 to Z100 inclusive: The twenty-seventh series shall then consist of the numbers A O-1, A O-2, A O-3 and so on to A O-100 inclusive, and the following series shall be arranged in the same way, using all the letters of the alphabet. If it shall be found necessary to use a third or further additional set of such series numbers, such third set shall consist of numbers beginning with A1-1, A1-2, and so on to A1-100 inclusive, and similar series shall be arranged for the succeeding letters of the alphabet and, if necessary, additional sets of such series numbers shall be formed in the same way.

§ 4. [*Display of Number—Local Requirements—Motor Cycles*].—That section 10 of the above entitled act be and the same is hereby amended to read as follows: Section 10. Every motor vehicle shall also at all times have the number assigned to it by the Secretary of State displayed both on the front and on the back of such motor vehicle in such manner as to be plainly visible, the number to be Arabic numerals in white upon a black ground, each four (4) inches in height, and each stroke to be of a width one-half ($\frac{1}{2}$) inch, and also as a part of such number the first three (3) letters of the State name, all letters to be four (4) inches in height, and no other designating mark shall be required by any city, town or other municipality, nor shall any city, town or other municipality require the payment of any license upon any motor vehicle or by the owner thereof: Provided, that the requirements of this section, so far as the same relates to the display of a number upon the front end of such motor vehicle shall not apply to motor cycles,

§ 5. [*Penalties—Second and Third Offenses*].—That section thirteen (13) of the above entitled act be and the same is hereby amended to read as follows: Section 13. If any person neglects or refuses to comply with any of the provisions of this Act he shall on conviction thereof before any justice of the peace or other court having jurisdiction, be fined not more than fifty (\$50.00) dollars for a first offense and shall be fined not more than one hundred (\$100.00) dollars for a second offense, and shall be fined not more than two hundred (\$200.00) dollars for a third or subsequent offense.

An Act to amend section 2 of an act entitled "An Act to amend sections 2, 5, 7, 10 and 13 of an act entitled 'An Act to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles and other motor vehicles upon public highways, and providing penalties,' approved March 6, 1905," approved March 12, 1907.

[Approved March 6, 1909; Acts 1909, c. 132]

Be it enacted by the General Assembly of the State of Indiana:

§ 2. [*Approaching Horses—Speed—Assistance—Rules of Road*].—That section 5 of the above entitled act be, and the same is hereby amended to read as follows:

§ 5. That any person or persons operating a motor vehicle shall upon meeting any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals on any public highway, proceed at a speed not to exceed six miles per hour until past such horse, horses or other draft animals or other farm animals and upon request or signal by putting up the hand from any such person or persons so riding, leading or driving any horse, horses or other draft animals or other farm animals (if in sufficient light for such signal to be perceptible), immediately bring his motor vehicle to a stop and remain stationary so long as may be reasonable to allow such horse, horses or other draft animals or other farm animals to pass, and upon request shall furnish such aid as may be necessary to such person or persons; and upon overtaking on any public highway any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals the operator of any motor vehicle when signaled as above provided, shall reduce the speed of such motor vehicle and before passing shall allow reasonable time for such animal to be driven or conducted to the right side of the road: Provided, that the driver of any horse, horses or other draft animals or other farm animals shall, upon the approach of any motor vehicle, traveling in the opposite direction, drive to the right so as to give to said motor vehicle one-half of the traveled portion of the highway or street, and upon the approach of any such motor vehicle

traveling in the same direction, the said driver of any such animal or animals shall upon signal of bell or horn from any such motor vehicle drive to the right with reasonable promptitude so as to give to said motor vehicle one-half of the traveled portion of the said highway or street, and the operator of any motor vehicle upon the approach of any driver of horse, horses or other draft animals or other farm animals, moving in the opposite direction, shall drive his motor vehicle to the right so as to give one-half of the traveled portion of the highway or street to the driver of said horse, horses or other farm animals. It shall be a misdemeanor for any person to operate a motor vehicle of any kind upon any public highway or street while intoxicated, or under the influence of intoxicating liquor, and upon conviction he shall be subject to punishment by a fine not exceeding one hundred dollars, or imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, in the discretion of the court.

IOWA.

ACT OF APRIL 12, 1904.

- § 1. Terms Defined.
- 2. Statement—Fees.
- 3. Statement Filed—Registration Number.
- 4. Change of Owner—Re-registration.
- 5. Seal.
- 6. Number Displayed.
- 7. Non-resident Owner.
- 8. Regulations.
- 9. Caution—Signals.
- 10. Brakes—Signal Bell or Horn—Lamps.
- 11. Powers of Cities and Towns.
- 12. Penalties.

ACT OF MARCH 19, 1907.

- § 1. Registration Fee.
- 2. Fee for Re-registration.
- 3. Dealer's Demonstration Number—Annual Fee.

ACT OF FEB. 26, 1909.

- § 1. Motor Cycles.
- 2. Card Index Record.
- 3. Dealer's Permit.

- § 4. Operation Without Number Displayed—Use of Unassigned Number.
5. In Effect.

An Act requiring registration of motor vehicles and regulating their use or operation upon highways or streets. [Additional to chapter two (2) of title eight (VIII) of the code, relating to working roads].

[Act approved April 12, 1904; Laws 1904, c. 53.]

Be it enacted by the General Assembly of the State of Iowa:

§ 1. [*Terms Defined*].—The words and phrases used in this act shall for the purposes of this act only, be considered as follows: 1. "Motor vehicle" shall include all vehicles propelled by any power other than muscular power, excepting such motor vehicles as run only upon rails or tracks, provided that nothing herein contained shall apply to traction engines or road rollers; 2. "Closely built up portions" shall mean the territory of a city, town or village contiguous to a public highway devoted to business or where for not less than one fourth ($\frac{1}{4}$) of a mile the dwelling houses on such highway average not more than one hundred (100) feet apart.

§ 2. [*Statement—Fees*].—Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the Secretary of State a statement of his name and address, with a brief description of the vehicle to be registered, on a blank to be prepared and furnished by such secretary for that purpose. The filing fee shall be one (1) dollar.

§ 3. [*Statement Filed—Registration Number*].—The Secretary of State shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose, and assign it a number, beginning with the number one (1) and so on in the order of filing.

§ 4. [*Change of Owner—Re-registration*].—Every person acquiring a motor vehicle shall file a like statement with the Secretary of State and such Secretary of State shall, in like manner, file such statement, register such vehicle and assign it a number. If the vehicle has previously been registered, such fact and number assigned it shall be set forth in the statement, and the previous registration shall be canceled; but the number of such previous registration may be assigned under the new registration.

§ 5. [*Seal*].—The Secretary of State shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form, not over two (2) inches in diameter, and have stamped therein the words "registered in the office of the Secretary of

State for the State of Iowa, under the Motor Vehicle Law, No. —" with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 6. [*Number Displayed*].—Every motor vehicle shall also at all times have the number assigned to it by the Secretary of State displayed on the back of such motor vehicle in such a manner as to be plainly visible, the number to be in Arabic numerals, each not less than three (3) inches in height, and each stroke to be of a width not less than one half ($\frac{1}{2}$) inch, and also as a part of such number the initial and terminal letters of the State's name, such letters to be not less than two (2) inches in height.

§ 7. [*Non-resident Owner*].—The provisions of sections two (2) to five (5) inclusive shall not apply to motor vehicles owned and operated by non-residents of this State, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the State, Territory or federal district of their residence, and the registration number showing the initial of such State, Territory or federal district shall be displayed on such vehicle substantially as provided by section six (6) of this act.

§ 8. [*Regulations*].—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or in any event in the closely built up portions of a city, town or village, at a greater rate than one (1) mile in six (6) minutes, or elsewhere in a city, town or village at a greater rate than one (1) mile in four (4) minutes, or elsewhere outside of a city, town or village at a greater average rate than twenty (20) miles per hour; subject, however, to the other provisions of this section. Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed less than hereinbefore specified, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 9. [*Caution—Signals*].—Any person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a restive horse or other draft or domestic animals, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animals to pass, and, if traveling in the same direction, use reasonable caution in passing such horse or animal, and the operator and occupants of any motor vehicle shall render neces-

sary assistance to the party having in charge said horse or other draft animal in so passing.

§ 10. [*Brakes—Signal Bell or Horn—Lamps*].—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes, and also with a suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one (1) hour after sunset to one (1) hour before sunrise, one or more lamps showing white light visible within a reasonable distance in the direction toward which such vehicle is proceeding, and also a red light visible in the reverse direction.

§ 11. [*Powers of Cities and Towns*].—Cities and towns shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways or excluding or prohibiting any motor vehicle whose owner has complied with section two (2) or section four (4) of this act from the free use of such highway, and all such ordinances, rules or regulations now in force are hereby declared to be of no validity or effect; provided that nothing in this act shall be construed as limiting the power of local authorities to make, enforce and maintain ordinances, rules or regulations, in addition to the provisions of this act, affecting motor vehicles which are offered to the public for hire.

§ 12. [*Penalties*].—The violation of any of the provisions of this act shall be deemed a misdemeanor, punishable by a fine not exceeding twenty-five dollars (\$25) for the first offense, and punishable by a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or imprisonment not exceeding thirty (30) days in the county jail for a second or subsequent offense.

An Act to amend sections two (2), four (4) and five (5) of chapter fifty-three (53) of the acts of the Thirtieth General Assembly, in regard to motor vehicles.

[Act approved March 19, 1907; Laws 1907, c. 68.]

Be it enacted by the General Assembly of the State of Iowa:

§ 1. [*Registration Fee*].—That section two (2) of chapter fifty-three (53) of the acts of the Thirtieth General Assembly be amended by striking out the last sentence of said section and inserting the following in lieu thereof: "The filing and registration fee shall be five (5) dollars, payable to the Secretary of State."

§ 2. [*Fee for Re-registration*].—That section four (4) of said chapter fifty-three (53) of the acts of the Thirtieth General Assembly be amended by inserting after the word "State" and before the word

"and" in the second line of said section, the following: — "accompanied by the fee required in section two (2) of this act."

§ 3. [*Dealer's Demonstration Number—Annual Fee*].—That section five (5) of said chapter fifty-three (53) of the Thirtieth General Assembly be amended by adding the following thereto:

"Every dealer in motor vehicles may have issued to him by the Secretary of State, a dealer's number, to be registered as such, which number, and also the number displayed on the back of the motor vehicle as provided in section six of this chapter, shall be preceded by the capital letter 'D,' which number may be temporarily used upon any motor vehicle owned by said dealer, or kept and exhibited for sale by him, when demonstrating its use on the public streets or highways, and not in use for hire. Every motor vehicle kept for hire shall have a separate, individual, registered number the same as if kept by the owner for private use. Every dealer in motor vehicles is hereby required to apply to the Secretary of State on or before the first day of July of each year for a dealer's number and a dealer's permit to use the same, the annual fee for which shall be ten (10) dollars, payable to the Secretary of State when the number and permit are applied for; provided, however, that a dealer may if he chooses register each motor vehicle in his possession separately and individually, in which event he shall not be required to take out a dealer's number. The same number may be re-assigned to the same dealer, but shall not be transferable to any other person, firm or company."

An Act to amend sections fifteen hundred and seventy-one-b (1571-b), fifteen hundred and seventy-one-c (1571-c), fifteen hundred and seventy-one-e (1571-e) and fifteen hundred and seventy-one-f (1571-f) of the supplement to the code, 1907, in reference to motor vehicles.

[Act approved Feb. 26, 1909; Laws 1909, c. 103.]

Be it enacted by the General Assembly of the State of Iowa:

§ 1. [*Motor Cycles*].—That section fifteen hundred and seventy-one-b (1571-b) of the supplement to the code, 1907, be and the same is hereby amended by striking out the period at the end of said section, inserting a comma in place thereof and adding thereto the following words: "provided, however, that the fee for registering a motor cycle shall be two dollars (\$2.00) only."

§ 2. [*Card Index Record*].—That section fifteen hundred and seventy-one-c (1571-c) of the supplement to the code, 1907, be and the same is hereby amended by inserting after the word "book" in the third line of said section the words: "or card index."

§ 3. [*Dealer's Permit*].—That section fifteen hundred and seventy-

one-e (1571-e) of the supplement to the code, 1907, be and the same is hereby amended by adding thereto the following: "Every dealer's permit shall expire on the thirtieth day of June following the date of its issue. Where a dealer has an established place of business in more than one city or town he shall procure a separate and distinct dealer's number and permit for each such place of business."

§ 4. [*Operation Without Number Displayed—Use of Unassigned Number*].—That section fifteen hundred and seventy-one-f (1571-f) of the supplement to the code, 1907, be and the same is hereby amended by adding thereto the following:

"No person shall operate a motor vehicle on the public streets or highways without a number displayed as provided above, nor with any other number than that assigned to said vehicle by the Secretary of State and registered in the name of the owner thereof."

§ 5. [*In Effect*].—This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Register and Leader and Des Moines Capital, newspapers published in Des Moines, Iowa.

KANSAS.

ACT OF MARCH 13, 1903.

- § 1. Definition of "Automobile" and "Motor Vehicle."
- 2. Applicability to Traction Engines.
- 3. Equipment—Signaling Device—Brakes—Lights.
- 4. Speed—Regard to Traffic.
- 5. Speed—Rate.
- 6. Approaching Horses—Care—Speed—Stopping.
- 7. Speed at Crossways.
- 8. Local Regulations—Power to Enact.
- 9. Penalties.
- 10. Acts Repealed.
- 11. Time of Taking Effect.

An Act in relation to automobiles and motor vehicles, regulating their speed and operation on the public highways in this State, providing for their proper equipment, and providing penalties for the violation thereof.

[Act approved March 13, 1903; Laws 1903, c. 67.]

Be it enacted by the Legislature of the State of Kansas:

§ 1. [*Definition of "Automobile" and "Motor Vehicle"*].—That the term "automobile" and "motor vehicle" as used in this act shall be

For a violation of section ten, subdivision b, two hundred dollars.

For a violation of section ten, subdivision c, two hundred dollars.

For a violation of section twelve, two hundred dollars.

For a violation of section fourteen, ten dollars.

For a violation of section fifteen, fifteen dollars.

For a violation of section seventeen, one hundred dollars.

Any provision not herein specifically mentioned, one hundred dollars: Provided, that any offender who shall have been guilty of a violation of any section of this Act, and find [fined] therefor, and who shall within six months thereafter be convicted of a second violation of such section, may be fined in a sum not exceeding double the penalty herein provided for a first violation, and in addition thereto may have his certificate or license issued by the secretary of state revoked for a period not exceeding sixty days; and for a third or subsequent violation of such section within six months after the date of such second violation, the certificate of license may, in addition to the fine provided for a second offense, be revoked for a period not exceeding six months. Any person whose license shall have been revoked for a violation of any of the provisions of this Act, and who shall drive or operate a motor vehicle within the State of Illinois during the period for which his said license shall have been revoked, or any person who, having once been convicted of a failure to comply with the provisions of this Act, requiring a registration of chauffeurs, shall fail or refuse to comply with said provisions, shall be deemed guilty of a misdemeanor, and on conviction may be fined in a sum not to exceed two hundred dollars, or imprisoned in the county jail for a period not exceeding thirty days, or both, in the discretion of the court. All fines imposed for the violation of any of the provisions of this Act shall be paid to the treasurer of the highway commissioners of the township or road district in which the offense is committed, by the justice of the peace, clerk of the court or other officer to whom the amount of such fines shall be by law required to be paid by the constable, bailiff, sheriff or other officer named in any execution issued for the collection of the same; and all moneys so received by the treasurer of the highway commissioners shall be used in repairing and improving the roads within such township or road district: Provided, however, that whenever any such violations shall occur within the limits of any city, village or incorporated town, or within the jurisdiction of any board of park commissioners wherein no commissioners of highways exist or have jurisdiction, in such cases all fines imposed for the violation of any of the provisions of this Act shall be paid to the treasurer of such city, village or incorporated town, or to the park commissioners within whose jurisdiction the offense is committed, by the justice of the peace, clerk of the court or other officer, to whom the amount of such fines

shall be by law required to be paid by the constable, bailiff, sheriff or other officer named in any execution issued for the collection of the same, and all moneys so received by the treasurer of such city, village or incorporated town, or park commissioners, shall be used in repairing and improving the roads or streets within such city, village, incorporated town or park.

INDIANA.

ACT OF MARCH 6, 1905.

- § 1. "Motor Vehicles" Defined.
- 3. Local Speed Regulations.
- 4. Equipment—Brake—Signaling Device—Sounding.
- 6. Registration of Vehicles—Application—Fees—Disposition of Fees.
- 8. Vehicles Previously Registered.
- 9. Seals—Form—Display.
- 11. Registration by Manufacturers or Dealers—Display of Number.
- 12. Vehicles of Nonresidents Registered Elsewhere.
- 14. Acts Repealed.

ACT OF MARCH 12, 1907.

- § 1. Speed—Closely Built up Sections—Curves, Hills, Bridges, etc.—Lights.
- 3. Registration Numbers—Mode of Assigning.
- 4. Display of Number—Local Requirements—Motor Cycles.
- 5. Penalties—Second and Third Offenses.

ACT OF MARCH 6, 1909.

- § 2. Approaching Horses—Speed—Assistance—Rules of Road.

An Act to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles or other motor vehicles upon public highways, and providing penalties.

[Approved March 6, 1905; Acts 1905, c. 123.]

Be it enacted by the General Assembly of the State of Indiana:

§ 1. [*"Motor Vehicles" Defined*].—That the words and phrases used in this Act shall for the purpose of this Act only be construed as follows: 1. "Motor vehicles" shall include all vehicles propelled by any power other than muscular power, excepting traction engines, road rollers and such motor vehicles as run only upon rails or track.

§ 2. [Superseded by Act of March 12, 1907.]

§ 3. [*Local Speed Regulations*].—That any rate of speed provided in section two (2) of this Act shall not be diminished nor prohibited by any ordinance, rule or regulation of any municipality, board or other public authorities.

§ 4. [*Equipment—Brake—Signaling Device—Sounding*].—Any persons operating a motor vehicle shall at all times provide the same with a good and efficient brake and a suitable bell, horn, or other signal, and shall upon approaching any person or persons riding, leading or driving a horse, horses, draft animals or other farm animals upon any public highway or in any public place, signal such person or persons with said bell or horn either upon overtaking or meeting any such person or persons, giving such person or persons a reasonable time to prepare for the passing of said motor vehicle.

§ 5. [Superseded by Act of March 12, 1907.]

§ 6. [*Registration of Vehicles—Application—Fees—Disposition of Fees*].—That every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered on a blank, to be prepared and furnished by such secretary for that purpose. The filing fee shall be one dollar (\$1.00); all of which fees to be paid into the general fund of the state treasury as other fees now collected by the secretary of state are required to be paid into the treasury.

§ 7. [Superseded by Act of March 12, 1907.]

§ 8. [*Vehicles Previously Registered*].—Every person acquiring a motor vehicle shall file a like statement with the secretary of state and such secretary of state shall in like manner file such vehicle and assign it a number. If the vehicle has previously been registered such fact and number assigned it shall be set forth in the statement, and the previous registration shall be canceled, but the number of such previous registration may be assigned under the new registration.

§ 9. [*Seals—Form—Display*].—The secretary of state shall forthwith on such registration and without other fee issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form and two (2) inches in diameter, and have stamped therein the words, "Registered in the office of Secretary of State of Indiana under the Motor Vehicle Law, No. —," with the registration number inserted therein, which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 10. [Superseded by Act of March 12, 1907.]

§ 11. [*Registration by Manufacturers or Dealers—Display of Number*].—A manufacturer of or a dealer in motor vehicles shall register one (1) of each style or type to be manufactured or dealt in by him,

and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of an additional fee of fifty (50) cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with sections six (6), eight (8) and ten (10) of this Act, until such vehicle shall be sold or let for hire. Nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

§ 12. [*Vehicles of Nonresidents Registered Elsewhere*].—The provisions of sections seven (7) to ten (10), inclusive, shall not apply to motor vehicles owned and operated by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners or in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as provided by section ten (10) of this Act.

§ 13. [Superseded by Act of March 12, 1907.]

§ 14. [*Acts Repealed*].—All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

An Act to amend sections two, five, seven, ten and thirteen of an act entitled "An Act to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles and other motor vehicles upon public highways, and providing penalties," approved March 6, 1905.

[Approved March 12, 1907; Acts 1907, c. 258.]

Be it enacted by the General Assembly of the State of Indiana:

§ 1. [*Speed—Closely Built up Sections—Curves, Hills, Bridges, etc.—Lights*].—That section two (2) of the above entitled act be and the same is hereby amended to read as follows: Section 2. That any person or persons operating a motor vehicle on any public highway or in any public place shall not operate the same at any rate of speed greater than is reasonable and proper, having regard to the use in common of such highways or place or so as to endanger life or limb of any person, and in no event shall such motor vehicle be operated at a greater rate of speed than eight (8) miles an hour in the business and closely built up portions of any municipality of this State, nor more than fifteen (15) miles an hour in any other portions of such municipalities, nor more than twenty (20) miles an hour outside such municipalities. Upon approaching a bridge, dam, sharp curve, or steep

descent and also in traversing such bridge, dam, curve or descent, and upon approaching a crossing of intersecting highways, a person operating a motor vehicle shall have it under control and operate it at a speed not greater than is reasonable and proper, having regard to the safety of traffic then on such highway and of the public: Provided, further, that after dark all automobiles shall carry lighted lamps.

§ 2. [Superseded by Act of March 6, 1909.]

§ 3. [*Registration Numbers—Mode of Assigning*].—That section seven (7) of the above entitled act be and the same is hereby amended to read as follows: Section 7. The Secretary of State shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose and assign it a number in the order of filing. Such numbers shall be determined and arranged as follows: Numbers shall be in series of one hundred, of which the first shall consist of the numbers A1, A2, A3, and so on to A100 inclusive; the second series shall consist of the numbers B1, B2, B3 and so on to B100 inclusive; the following series shall be arranged in the same way, taking each letter in the alphabet in order until all such letters have been so used; the twenty-sixth will thus consist of the numbers Z1 to Z100 inclusive: The twenty-seventh series shall then consist of the numbers A O-1, A O-2, A O-3 and so on to A O-100 inclusive, and the following series shall be arranged in the same way, using all the letters of the alphabet. If it shall be found necessary to use a third or further additional set of such series numbers, such third set shall consist of numbers beginning with A1-1, A1-2, and so on to A1-100 inclusive, and similar series shall be arranged for the succeeding letters of the alphabet and, if necessary, additional sets of such series numbers shall be formed in the same way.

§ 4. [*Display of Number—Local Requirements—Motor Cycles*].—That section 10 of the above entitled act be and the same is hereby amended to read as follows: Section 10. Every motor vehicle shall also at all times have the number assigned to it by the Secretary of State displayed both on the front and on the back of such motor vehicle in such manner as to be plainly visible, the number to be Arabic numerals in white upon a black ground, each four (4) inches in height, and each stroke to be of a width one-half ($\frac{1}{2}$) inch, and also as a part of such number the first three (3) letters of the State name, all letters to be four (4) inches in height, and no other designating mark shall be required by any city, town or other municipality, nor shall any city, town or other municipality require the payment of any license upon any motor vehicle or by the owner thereof: Provided, that the requirements of this section, so far as the same relates to the display of a number upon the front end of such motor vehicle shall not apply to motor cycles.

§ 5. [*Penalties—Second and Third Offenses*].—That section thirteen (13) of the above entitled act be and the same is hereby amended to read as follows: Section 13. If any person neglects or refuses to comply with any of the provisions of this Act he shall on conviction thereof before any justice of the peace or other court having jurisdiction, be fined not more than fifty (\$50.00) dollars for a first offense and shall be fined not more than one hundred (\$100.00) dollars for a second offense, and shall be fined not more than two hundred (\$200.00) dollars for a third or subsequent offense.

An Act to amend section 2 of an act entitled "An Act to amend sections 2, 5, 7, 10 and 13 of an act entitled 'An Act to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles and other motor vehicles upon public highways, and providing penalties,' approved March 6, 1905," approved March 12, 1907.

[Approved March 6, 1909; Acts 1909, c. 132]

Be is enacted by the General Assembly of the State of Indiana:

§ 2. [*Approaching Horses—Speed—Assistance—Rules of Road*].—That section 5 of the above entitled act be, and the same is hereby amended to read as follows:

§ 5. That any person or persons operating a motor vehicle shall upon meeting any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals on any public highway, proceed at a speed not to exceed six miles per hour until past such horse, horses or other draft animals or other farm animals and upon request or signal by putting up the hand from any such person or persons so riding, leading or driving any horse, horses or other draft animals or other farm animals (if in sufficient light for such signal to be perceptible), immediately bring his motor vehicle to a stop and remain stationary so long as may be reasonable to allow such horse, horses or other draft animals or other farm animals to pass, and upon request shall furnish such aid as may be necessary to such person or persons; and upon overtaking on any public highway any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals the operator of any motor vehicle when signaled as above provided, shall reduce the speed of such motor vehicle and before passing shall allow reasonable time for such animal to be driven or conducted to the right side of the road: Provided, that the driver of any horse, horses or other draft animals or other farm animals shall, upon the approach of any motor vehicle, traveling in the opposite direction, drive to the right so as to give to said motor vehicle one-half of the traveled portion of the highway or street, and upon the approach of any such motor vehicle

traveling in the same direction, the said driver of any such animal or animals shall upon signal of bell or horn from any such motor vehicle drive to the right with reasonable promptitude so as to give to said motor vehicle one-half of the traveled portion of the said highway or street, and the operator of any motor vehicle upon the approach of any driver of horse, horses or other draft animals or other farm animals, moving in the opposite direction, shall drive his motor vehicle to the right so as to give one-half of the traveled portion of the highway or street to the driver of said horse, horses or other farm animals. It shall be a misdemeanor for any person to operate a motor vehicle of any kind upon any public highway or street while intoxicated, or under the influence of intoxicating liquor, and upon conviction he shall be subject to punishment by a fine not exceeding one hundred dollars, or imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, in the discretion of the court.

IOWA.

ACT OF APRIL 12, 1904.

- § 1. Terms Defined.
- 2. Statement—Fees.
- 3. Statement Filed—Registration Number.
- 4. Change of Owner—Re-registration.
- 5. Seal.
- 6. Number Displayed.
- 7. Non-resident Owner.
- 8. Regulations.
- 9. Caution—Signals.
- 10. Brakes—Signal Bell or Horn—Lamps.
- 11. Powers of Cities and Towns.
- 12. Penalties.

ACT OF MARCH 19, 1907.

- § 1. Registration Fee.
- 2. Fee for Re-registration.
- 3. Dealer's Demonstration Number—Annual Fee.

ACT OF FEB. 26, 1909.

- § 1. Motor Cycles.
- 2. Card Index Record.
- 3. Dealer's Permit.

§ 4. Operation Without Number Displayed—Use of Unassigned Number.

5. In Effect.

An Act requiring registration of motor vehicles and regulating their use or operation upon highways or streets. [Additional to chapter two (2) of title eight (VIII) of the code, relating to working roads].

[Act approved April 12, 1904; Laws 1904, c. 53.]

Be it enacted by the General Assembly of the State of Iowa:

§ 1. [*Terms Defined*].—The words and phrases used in this act shall for the purposes of this act only, be considered as follows: 1. "Motor vehicle" shall include all vehicles propelled by any power other than muscular power, excepting such motor vehicles as run only upon rails or tracks, provided that nothing herein contained shall apply to traction engines or road rollers; 2. "Closely built up portions" shall mean the territory of a city, town or village contiguous to a public highway devoted to business or where for not less than one fourth ($\frac{1}{4}$) of a mile the dwelling houses on such highway average not more than one hundred (100) feet apart.

§ 2. [*Statement—Fees*].—Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the Secretary of State a statement of his name and address, with a brief description of the vehicle to be registered, on a blank to be prepared and furnished by such secretary for that purpose. The filing fee shall be one (1) dollar.

§ 3. [*Statement Filed—Registration Number*].—The Secretary of State shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose, and assign it a number, beginning with the number one (1) and so on in the order of filing.

§ 4. [*Change of Owner—Re-registration*].—Every person acquiring a motor vehicle shall file a like statement with the Secretary of State and such Secretary of State shall, in like manner, file such statement, register such vehicle and assign it a number. If the vehicle has previously been registered, such fact and number assigned it shall be set forth in the statement, and the previous registration shall be canceled; but the number of such previous registration may be assigned under the new registration.

§ 5. [*Seal*].—The Secretary of State shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form, not over two (2) inches in diameter, and have stamped therein the words "registered in the office of the Secretary of

State for the State of Iowa, under the Motor Vehicle Law, No. —" with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 6. [*Number Displayed*].—Every motor vehicle shall also at all times have the number assigned to it by the Secretary of State displayed on the back of such motor vehicle in such a manner as to be plainly visible, the number to be in Arabic numerals, each not less than three (3) inches in height, and each stroke to be of a width not less than one half ($\frac{1}{2}$) inch, and also as a part of such number the initial and terminal letters of the State's name, such letters to be not less than two (2) inches in height.

§ 7. [*Non-resident Owner*].—The provisions of sections two (2) to five (5) inclusive shall not apply to motor vehicles owned and operated by non-residents of this State, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the State, Territory or federal district of their residence, and the registration number showing the initial of such State, Territory or federal district shall be displayed on such vehicle substantially as provided by section six (6) of this act.

§ 8. [*Regulations*].—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or in any event in the closely built up portions of a city, town or village, at a greater rate than one (1) mile in six (6) minutes, or elsewhere in a city, town or village at a greater rate than one (1) mile in four (4) minutes, or elsewhere outside of a city, town or village at a greater average rate than twenty (20) miles per hour; subject, however, to the other provisions of this section. Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed less than hereinbefore specified, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 9. [*Caution—Signals*].—Any person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a restive horse or other draft or domestic animals, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animals to pass, and, if traveling in the same direction, use reasonable caution in passing such horse or animal, and the operator and occupants of any motor vehicle shall render neces-

sary assistance to the party having in charge said horse or other draft animal in so passing.

§ 10. [*Brakes—Signal Bell or Horn—Lamps*].—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes, and also with a suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one (1) hour after sunset to one (1) hour before sunrise, one or more lamps showing white light visible within a reasonable distance in the direction toward which such vehicle is proceeding, and also a red light visible in the reverse direction.

§ 11. [*Powers of Cities and Towns*].—Cities and towns shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways or excluding or prohibiting any motor vehicle whose owner has complied with section two (2) or section four (4) of this act from the free use of such highway, and all such ordinances, rules or regulations now in force are hereby declared to be of no validity or effect; provided that nothing in this act shall be construed as limiting the power of local authorities to make, enforce and maintain ordinances, rules or regulations, in addition to the provisions of this act, affecting motor vehicles which are offered to the public for hire.

§ 12. [*Penalties*].—The violation of any of the provisions of this act shall be deemed a misdemeanor, punishable by a fine not exceeding twenty-five dollars (\$25) for the first offense, and punishable by a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or imprisonment not exceeding thirty (30) days in the county jail for a second or subsequent offense.

An Act to amend sections two (2), four (4) and five (5) of chapter fifty-three (53) of the acts of the Thirtieth General Assembly, in regard to motor vehicles.

[Act approved March 19, 1907; Laws 1907, c. 68.]

Be it enacted by the General Assembly of the State of Iowa:

§ 1. [*Registration Fee*].—That section two (2) of chapter fifty-three (53) of the acts of the Thirtieth General Assembly be amended by striking out the last sentence of said section and inserting the following in lieu thereof: "The filing and registration fee shall be five (5) dollars, payable to the Secretary of State."

§ 2. [*Fee for Re-registration*].—That section four (4) of said chapter fifty-three (53) of the acts of the Thirtieth General Assembly be amended by inserting after the word "State" and before the word

"and" in the second line of said section, the following: — "accompanied by the fee required in section two (2) of this act."

§ 3. [*Dealer's Demonstration Number—Annual Fee*].—That section five (5) of said chapter fifty-three (53) of the Thirtieth General Assembly be amended by adding the following thereto:

"Every dealer in motor vehicles may have issued to him by the Secretary of State, a dealer's number, to be registered as such, which number, and also the number displayed on the back of the motor vehicle as provided in section six of this chapter, shall be preceded by the capital letter 'D,' which number may be temporarily used upon any motor vehicle owned by said dealer, or kept and exhibited for sale by him, when demonstrating its use on the public streets or highways, and not in use for hire. Every motor vehicle kept for hire shall have a separate, individual, registered number the same as if kept by the owner for private use. Every dealer in motor vehicles is hereby required to apply to the Secretary of State on or before the first day of July of each year for a dealer's number and a dealer's permit to use the same, the annual fee for which shall be ten (10) dollars, payable to the Secretary of State when the number and permit are applied for; provided, however, that a dealer may if he chooses register each motor vehicle in his possession separately and individually, in which event he shall not be required to take out a dealer's number. The same number may be re-assigned to the same dealer, but shall not be transferable to any other person, firm or company."

An Act to amend sections fifteen hundred and seventy-one-b (1571-b), fifteen hundred and seventy-one-c (1571-c), fifteen hundred and seventy-one-e (1571-e) and fifteen hundred and seventy-one-f (1571-f) of the supplement to the code, 1907, in reference to motor vehicles.

[Act approved Feb. 26, 1909; Laws 1909, c. 103.]

Be it enacted by the General Assembly of the State of Iowa:

§ 1. [*Motor Cycles*].—That section fifteen hundred and seventy-one-b (1571-b) of the supplement to the code, 1907, be and the same is hereby amended by striking out the period at the end of said section, inserting a comma in place thereof and adding thereto the following words: "provided, however, that the fee for registering a motor cycle shall be two dollars (\$2.00) only."

§ 2. [*Card Index Record*].—That section fifteen hundred and seventy-one-c (1571-c) of the supplement to the code, 1907, be and the same is hereby amended by inserting after the word "book" in the third line of said section the words: "or card index."

§ 3. [*Dealer's Permit*].—That section fifteen hundred and seventy-

one-e (1571-e) of the supplement to the code, 1907, be and the same is hereby amended by adding thereto the following: "Every dealer's permit shall expire on the thirtieth day of June following the date of its issue. Where a dealer has an established place of business in more than one city or town he shall procure a separate and distinct dealer's number and permit for each such place of business."

§ 4. [*Operation Without Number Displayed—Use of Unassigned Number*].—That section fifteen hundred and seventy-one-f (1571-f) of the supplement to the code, 1907, be and the same is hereby amended by adding thereto the following:

"No person shall operate a motor vehicle on the public streets or highways without a number displayed as provided above, nor with any other number than that assigned to said vehicle by the Secretary of State and registered in the name of the owner thereof."

§ 5. [*In Effect*].—This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Register and Leader and Des Moines Capital, newspapers published in Des Moines, Iowa.

KANSAS.

ACT OF MARCH 13, 1903.

- § 1. Definition of "Automobile" and "Motor Vehicle."
- 2. Applicability to Traction Engines.
- 3. Equipment—Signaling Device—Brakes—Lights.
- 4. Speed—Regard to Traffic.
- 5. Speed—Rate.
- 6. Approaching Horses—Care—Speed—Stopping.
- 7. Speed at Crossways.
- 8. Local Regulations—Power to Enact.
- 9. Penalties.
- 10. Acts Repealed.
- 11. Time of Taking Effect.

An Act in relation to automobiles and motor vehicles, regulating their speed and operation on the public highways in this State, providing for their proper equipment, and providing penalties for the violation thereof.

[Act approved March 13, 1903; Laws 1903, c. 67.]

Be it enacted by the Legislature of the State of Kansas:

§ 1. [*Definition of "Automobile" and "Motor Vehicle"*].—That the term "automobile" and "motor vehicle" as used in this act shall be

construed to include all types and grades of motor vehicles propelled by electricity, steam, gasoline, or other source of energy, commonly known as automobiles, motor vehicles, or horseless carriages, using the public highways and not running on rails or tracks. Nothing in this section shall be construed as in any way preventing, obstructing, impeding, embarrassing or in any other manner or form infringing upon the prerogative of any political chauffeur to run an automobilious band-wagon at any rate he sees fit compatible with the safety of the occupants thereof; provided, however, that not less than ten nor more than twenty ropes be allowed at all times to trail behind this vehicle when in motion, in order to permit those who have been so fortunate as to escape with their political lives an opportunity to be dragged to death; and provided further, that whenever a mangled and bleeding political corpse implores for mercy, the driver of the vehicle shall, in accordance with the provisions of this bill, "Throw out the life-line."

§ 2. [*Applicability to Traction Engines*].—That this act shall in no case change or repeal in any particular the present laws relating to the operation and management of steam traction-engines of any kind along the public highways, neither shall the present laws in relation to the management of steam traction-engines have any application as to the management and use of automobiles or motor vehicles along the public highways of this state.

§ 3. [*Equipment—Signaling Device—Brakes—Lights*].—Every automobile or motor vehicle shall be provided with a suitable bell, horn, or other signal, and be equipped with good and efficient brakes. Every automobile or similar motor vehicle shall be so constructed as to exhibit during the period from one hour after sunset to one hour before sunrise one or more lamps showing white lights, visible within a reasonable distance in the direction towards which the automobile is proceeding. The lamp or lamps shall be so placed as to be free from obstruction to light from other parts of said automobile or motor vehicle.

§ 4. [*Speed—Regard to Traffic*].—No person driving or in charge of an automobile or motor vehicle on any street, avenue, parkway or driveway or public highway in this state shall drive or operate the same at any speed at any time greater than is reasonable and proper, having due regard to the traffic and use of the highway, or so as to endanger the life or limb of any person.

§ 5. [*Speed—Rate*].—No automobile or other motor vehicle shall be run on any public highway outside the limits of the thickly settled or business part of any city or town at a speed exceeding twenty miles an hour, and no such vehicle shall be run on any public street or high-

way within the thickly settled or business part of any city or town at a speed exceeding ten miles an hour.

§ 6. [*Approaching Horses—Care—Speed—Stopping*].—Every person having control or charge of a motor vehicle or automobile shall, whenever upon any public street or highway and approaching any vehicle drawn by a horse or horses, or any horse upon which any person is riding or driving domestic animals, operate, manage and control such motor vehicle or automobile in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses or domestic animals and to insure the safety and protection of any person riding or driving the same; and if such horse or horses or domestic animals appear restive and frightened, the person in control of such motor vehicle shall reduce the speed thereof, and if practicable turn to the right and give the road, and, if requested by signal or otherwise by the driver of such horse or horses or domestic animals, shall proceed no further towards such animal or animals, but remain stationary so long as may be necessary to allow such horses or domestic animals to pass. This provision shall apply to automobiles or motor vehicles going either in the same or in the opposite direction.

§ 7. [*Speed at Crossways*].—Upon approaching a crossing or intersecting ways, and also in traversing the crossing or intersection, the person in control of any automobile or motor vehicle shall run at a rate of speed less than that above specified, and not greater than is reasonable and proper, having regard to the traffic and the use of the intersecting ways.

§ 8. [*Local Regulations—Power to Enact*].—The cities of the first, second and third class of this state shall have power by local ordinance to regulate and control the use and speed of automobiles and motor vehicles within the limits of said cities and prescribe penalties for the violation thereof; such ordinances not to be inconsistent or repugnant with the provisions of this act.

§ 9. [*Penalties*].—Any person failing to comply with the requirements of this act or violating any of its provisions shall be guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction shall be punished by a fine not exceeding one hundred dollars.

§ 10. [*Acts Repealed*].—All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. [*Time of Taking Effect*].—This act shall take effect and be in force from and after its publication in the official state paper.

KENTUCKY.

ACT OF MARCH 26, 1904.

- § 1. Speed Generally.
 2. Speed at Crossways, Curves, Hills, etc.
 3. Approaching Pedestrians or Horses—Warning—Speed—Stopping.
 4. Stopping on Signal—Care—Stopping Motor.
 5. Rules of the Road.
 6. Equipment—Brakes—Signaling Device—Lights.
 7. Penalties—Fine—Civil Liability—Lien on Vehicle.
 8. Application to Parks—Definition of Motor Vehicles.

ACT OF MARCH 23, 1910.

- § 1. Title of Act—Definition of Motor Vehicle.
 2. Registration of Vehicles—Application—Fees—Number—Seals, etc.
 3. Display of Number.
 4. Lights.
 5. Registration by Manufacturers and Dealers—Display of Number.
 6. Sale of Registered Vehicle—Registration.
 7. Vehicles of Nonresidents Registered Elsewhere.
 8. Equipment—Brakes—Signaling Device—Leaving Car with Motor Running.
 9. Speed—Regard to Traffic—Rates.
 10. Horse Becoming Frightened—Stopping.
 11. Local Regulations.
 12. Civil Actions Not Abridged.
 13. Disposition of Fees.
 14. Penalties—Acts Repealed.

An Act to regulate the running of motor vehicles upon the public highways of this State, and fixing a penalty for the violation thereof.

[Became a law March 26, 1904; Acts 1904, c. 122.]

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. [*Speed Generally*].—That no person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper at the time and place having regard to the traffic and use of the highway and its condition, or so as to endanger the life

or limb of any person, or in any event at a greater rate than 15 miles an hour, subject, however, to the other provisions of this section.

§ 2. [*Speed at Crossways, Curves, Hills, etc.*].—Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control, and operate it at a rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 3. [*Approaching Pedestrians or Horses—Warning—Speed—Stopping*].—Upon approaching a person walking in the roadway of a public highway, or a horse or other draft animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its approach by signaling with a horn, bell or other device not calculated to frighten such animal, and use every reasonable precaution to insure the safety of such person or animal, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same under control, and if such horses or other draft animals appear frightened, to not more than one-half the speed permitted by section two, and bring same to a stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicles.

§ 4. [*Stopping on Signal—Care—Stopping Motor*].—A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animals to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal: *Provided*, That in case such horse or animal appears badly frightened or he is requested so to do, the person operating such motor vehicle shall, if apparently safer, cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

§ 5. [*Rules of the Road*].—Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person so operating such motor vehicle shall reasonably turn the same to the right of the center of such highway, so as to pass without interference. Any such person so operating a motor vehicle shall, on

overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the left of such intersections when turning to the left.

§ 6. [*Equipment—Brakes—Signaling Device—Lights*].—Every motor vehicle, while in use on a public highway, shall be provided with good and efficient brakes and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which vehicle is proceeding and red light in reverse direction, provided that in case of heavy fog, if necessary, such light shall be displayed in daytime before sunset and after sunrise.

§ 7. [*Penalties—Fine—Civil Liability—Lien on Vehicle*].—Whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, be fined not less than ten dollars nor more than one hundred dollars and in addition thereto shall be liable in a civil action to pay any person injured in his person or damaged as to his property by the violation of the provisions of this act, and a lien shall attach to the vehicle causing the injury or damage in favor of the person injured or damaged upon the filing of a suit for damages.

§ 8. [*Application to Parks—Definition of Motor Vehicles*].—This act shall not apply to the operation or use of automobiles or other motor vehicles within incorporated cities or towns or to their use in the parks or park ways of any such city or town, or connected with or controlled by such city or town. Motor vehicles, as used in this act, includes all vehicles propelled by gasoline or other explosive vapor, steam, electricity or other kindred power, but the provisions of this act do not apply to traction engines, road rollers, fire engines, nor to motor vehicles run upon rails or set tramways or tracks.

An Act defining motor vehicles, providing for the registration of the same and uniform rules regulating the use and speed thereof.

[Act approved March 23, 1910; Acts 1910, c. 81.]

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. [*Title of Act—Definition of Motor Vehicles*].—That the short title of this act shall be the "Motor Vehicle Law." Whenever the

or limb of any person, or in any event at a greater rate than 15 miles an hour, subject, however, to the other provisions of this section.

§ 2. [*Speed at Crossways, Curves, Hills, etc.*].—Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control, and operate it at a rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 3. [*Approaching Pedestrians or Horses—Warning—Speed—Stopping*].—Upon approaching a person walking in the roadway of a public highway, or a horse or other draft animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its approach by signaling with a horn, bell or other device not calculated to frighten such animal, and use every reasonable precaution to insure the safety of such person or animal, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same under control, and if such horses or other draft animals appear frightened, to not more than one-half the speed permitted by section two, and bring same to a stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicles.

§ 4. [*Stopping on Signal—Care—Stopping Motor*].—A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animals to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal: *Provided*, That in case such horse or animal appears badly frightened or he is requested so to do, the person operating such motor vehicle shall, if apparently safer, cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

§ 5. [*Rules of the Road*].—Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person so operating such motor vehicle shall reasonably turn the same to the right of the center of such highway, so as to pass without interference. Any such person so operating a motor vehicle shall, on

overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the left of such intersections when turning to the left.

§ 6. [*Equipment—Brakes—Signaling Device—Lights*].—Every motor vehicle, while in use on a public highway, shall be provided with good and efficient brakes and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which vehicle is proceeding and red light in reverse direction, provided that in case of heavy fog, if necessary, such light shall be displayed in daytime before sunset and after sunrise.

§ 7. [*Penalties—Fine—Civil Liability—Lien on Vehicle*].—Whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, be fined not less than ten dollars nor more than one hundred dollars and in addition thereto shall be liable in a civil action to pay any person injured in his person or damaged as to his property by the violation of the provisions of this act, and a lien shall attach to the vehicle causing the injury or damage in favor of the person injured or damaged upon the filing of a suit for damages.

§ 8. [*Application to Parks—Definition of Motor Vehicles*].—This act shall not apply to the operation or use of automobiles or other motor vehicles within incorporated cities or towns or to their use in the parks or park ways of any such city or town, or connected with or controlled by such city or town. Motor vehicles, as used in this act, includes all vehicles propelled by gasoline or other explosive vapor, steam, electricity or other kindred power, but the provisions of this act do not apply to traction engines, road rollers, fire engines, nor to motor vehicles run upon rails or set tramways or tracks.

An Act defining motor vehicles, providing for the registration of the same and uniform rules regulating the use and speed thereof.

[Act approved March 23, 1910; Acts 1910, c. 81.]

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. [*Title of Act—Definition of Motor Vehicles*].—That the short title of this act shall be the "Motor Vehicle Law." Whenever the

term motor vehicle is used in this act it shall be construed to include automobiles, locomobiles and all other vehicles propelled otherwise than by muscular power, except motor bicycles, traction engines and road rollers, the cars of electric and steam railways and other vehicles as are propelled exclusively by muscular pedal power.

§ 2. [*Registration of Vehicles—Application—Fees—Number—Seals, etc.*].—Every owner of a motor vehicle which shall be driven in this State shall, except as otherwise provided in this act, within ten days after he becomes the owner of such vehicle file in the office of the Secretary of State an application properly sworn to, setting forth his name and address, with a brief description of the vehicle to be registered, including the name of the maker, factory number, style of vehicle and motor power, stated in figures of horse power, on a blank to be prepared and furnished by such Secretary of State for that purpose, and shall pay to the said Secretary of State a registration fee of five dollars on all motor vehicles of a power less than twenty-five horse power, and ten dollars on all motor vehicles of a power equal to or greater than twenty-five horse power, and less than fifty horse power, and twenty dollars on all motor vehicles of a power equal to or greater than fifty horse power, per annum for each motor vehicle owned by the person making such application. Said registration shall be made on the date the application is received and filed by the Secretary of State and shall expire one year thereafter. Upon the filing in the office of the Secretary of State of said application as hereinbefore provided, the Secretary of State or his duly authorized agent shall without further fee assign to such motor vehicle, as described in such application, a distinctive number and shall issue to the owner of such motor vehicle as is described in the application filed a certificate of registration, which certificate shall be in the form of a card, which may be carried in the pocket, and which certificate shall contain the distinctive number so assigned to such motor vehicle, the name and address of the owner, a brief description of such motor vehicle, stating the name of the manufacturer, the motor power, and the amount of such power stated in figures of horse power: *Provided*, that nothing in this act shall be construed to prevent cities of the first, second and third classes from levying and collecting license taxes from resident owners of motor vehicles for city purposes, by ordinances properly passed.

The Secretary of State shall also issue to the owner of such motor vehicle a seal of aluminum or other suitable metal which shall be circular in form and not to exceed two inches in diameter, having stamped thereon the words "Registered Motor Vehicle No. —, Ky.," thereafter at all times to be affixed to the motor vehicle to which such number has been assigned. Duplicate certificates of registration will be issued upon the payment of a fee of fifty cents and the filing in the

office of the Secretary of State an affidavit to the effect that the original certificate of registration was lost, stolen or destroyed.

The Secretary of State shall cause the name of such owner with his address, registration number and date of the filing of application and description of such motor vehicle or motor vehicles, to be entered in alphabetical order of the owner's name, in a book to be kept for that purpose in the office of the Secretary of State: *Provided*, that this section shall not apply to manufacturers of or dealers in motor vehicles in this State, except as to vehicles kept by such manufacturers or dealers for private use or for public hire.

§ 3. [*Display of Number*].—The owner of each motor vehicle shall have a number corresponding with the number of the certificate of registration and registration seal issued by the Secretary of State, as hereinbefore provided, conspicuously displayed upon the front and back of every such motor vehicle owned by him, whenever the same shall be driven or used upon the public streets, roads, turnpikes, parks, parkways, drives or other public highways in this State; such numbers to be separate Arabic numerals, not less than four inches in height and each stroke to be a width of not less than one-half of an inch, and also as part of such number, the letters "Ky.;" such numbers and letters shall be white on black ground, and such letters to be not less than one inch in height.

Said owner shall not be required to place any other marks of identity upon said motor vehicle.

§ 4. [*Lights*].—Every motor vehicle shall carry during the period from sunset to one hour before sunrise, at least two lighted lamps, showing white lights visible at least two hundred feet in the direction towards which each motor vehicle is proceeding, and shall also exhibit at least one red light visible in the reverse direction attached to the rear of such motor vehicle. Upon each of the glass fronts of the two first mentioned lamps showing white lights, shall be displayed in such manner as to be plainly visible when such lamps are lighted, the number of the certificate issued as aforesaid by the Secretary of State and in addition thereto, the letters "KY." such figures to be separate Arabic numerals not less than one inch in height.

§ 5. [*Registration by Manufacturers and Dealers—Display of Number*].—Each manufacturer of and dealer in motor vehicles doing business in this state, shall register one vehicle in each class manufactured or dealt in by him, and if a number corresponding to the number of the registration seal issued to such manufacturer or dealer is displayed upon every vehicle of the class for which it was issued as provided in this section, while such vehicle is being operated by such manufacturer or dealer, or his agent or representative on the public highway, it shall be deemed a sufficient compliance with sections two, three and four of

this act, until such vehicle shall be sold or let for hire: Provided, that electrically driven motors shall constitute a class, those propelled by steam power a class, and those propelled by gasoline explosive type engines a class, and that nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for his private use or for hire. No motor vehicle shall be used or operated upon the public highways of this State after this act shall take effect unless the owner shall have complied in all respects with sections two, three, four and five of this act.

§ 6. [*Sale of Registered Vehicle—Registration*].—The vendor and purchaser of every motor vehicle which has been previously registered by any person other than a manufacturer or dealer, shall within ten days after such sale join in a statement and send the same by mail to the Secretary of State, and thereupon said registration shall cease to apply to the motor vehicle so sold; and the purchaser of such motor vehicle shall register the same as in case of an original registration and another and different number than the original registration number shall be assigned to said motor vehicle, and the original registration number shall be cancelled by the Secretary of State.

§ 7. [*Vehicles of Nonresidents Registered Elsewhere*].—The provisions of sections two, three, four and five of this act shall not apply to any motor vehicle owned by non-residents of this State, provided the owner thereof has complied with any law requiring the registration of motor vehicles, or the names of the owners thereof, in force in the city, State, territory or federal district of his residence, provided the registration number showing the initial or abbreviation of the name of such city, State, territory or federal district shall be displayed on such vehicle substantially as in section three of this act provided. And provided, that nothing in this section shall be so construed as to exempt non-resident owners and drivers of automobiles from complying with the first part of section 4 of this act requiring the carrying of lighted lamps as in said section provided.

§ 8. [*Equipment—Brakes—Signaling Device—Leaving Car with Motor Running*].—Every motor vehicle while in use on a public highway shall be provided with good and sufficient brakes, and also with a suitable bell, horn or other signal device. No part of the machinery of any motor vehicle shall be left running while such vehicle is left standing without an attendant, on any public highway in this State.

§ 9. [*Speed—Regard to Traffic—Rates*].—No person shall drive a motor vehicle or motor bicycle upon any public highway in this State at a speed greater than is reasonable and proper, having regard to the traffic and use of the highway or so as to endanger the life or limb or injure the property of any person.

If the rate of speed of any motor vehicle or motor bicycle operated upon any public highway in this State where the same passes through the closely built up business portions of any incorporated city, town or village exceed ten (10) miles an hour for a distance of $\frac{1}{4}$ of a mile, or if the rate of speed of any motor vehicle or motor bicycle operated upon any public highway in this State where the same passes through the residence portions of any incorporated city, town or village exceeds fifteen (15) miles an hour for a distance of $\frac{1}{4}$ of a mile, or if the rate of speed of any motor vehicle or motor bicycle operated on any public highway of this State outside of the closely built up business portions and the residence portions of any incorporated city, town or village exceeds twenty (20) miles an hour for a distance of $\frac{1}{4}$ of a mile, such rate of speed shall be prima facie evidence that the person operating such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable and proper, having regard for the traffic and use of the way or so as to endanger the life or limb or injure the property of any person. If the rate of speed of a motor vehicle or motor bicycle operated on a public highway in this State in going around a corner, curve, or crossing a highway, where the operator's view of the road traffic is obstructed exceeds eight (8) miles an hour such rate of speed shall be prima facie evidence that the person operating such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable, having due regard to the traffic and use of the way or so as to endanger the life or limb or injure the property of any person.

§ 10. [*Horse Becoming Frightened—Stopping*].—Whenever it shall appear that any horse ridden or driven by any person upon any of said roads, streets or highways is about to become frightened by the approach of any such motor vehicle, it shall be the duty of the person driving or conducting such motor vehicle to cause the same to come to a full stop until such horse or horses shall have passed.

§ 11. [*Local Regulations*].—No owner of a motor vehicle shall be required to display upon his motor vehicle any other number than the number of the registration seal issued by the Secretary of State, or excluded or prohibited from, or limited in the free use of his said motor vehicle or vehicles, nor limited as to speed upon any public street, avenue, road, turnpike, driveway, parkway or any other public place at any time when the same is or may hereafter be opened to use of persons having or using other vehicles, nor be required to comply with other provisions or conditions as to the use of said motor vehicles except as in this act provided: Provided, however, that nothing in this section contained shall be construed to apply to or include any speedway created, provided for, or maintained by the local authorities of any city, town, village or other municipal corporation within the state: And

provided further that the local authorities having jurisdiction over the public parks and boulevards connecting or pertaining to the same shall not by the terms of this act be prohibited from adopting and enforcing such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated within or upon any such parks, parkways, or boulevards, provided the rate of speed of motor vehicles fixed by such ordinances, rules or regulations, shall not be lower than the rate fixed for other vehicles, and provided that such authorities shall by signs conspicuously placed, indicate the rate of speed permitted by such ordinances, rules or regulations: and provided that nothing in this act shall be construed as affecting the power of municipal corporations to make and enforce ordinances, rules and regulations affecting motor vehicles which are used within their limits for public hire.

§ 12. [*Civil Actions Not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to persons or property resulting from the negligent use of motor vehicles or motor bicycles on the public highways.

§ 13. [*Disposition of Fees*].—All fees collected by the Secretary of State under this act, shall be covered by him into the State Treasury, for the benefit of the State Road fund, and to be applied and set apart as an addition to the fund.

§ 14. [*Penalties—Acts Repealed*].—Any person willfully violating any of the provisions of this act shall upon conviction be fined not less than twenty dollars nor more than fifty dollars. Any one using a fictitious number or numbers after the registration for same has expired shall be guilty of a misdemeanor and upon conviction be fined not less than fifty dollars nor more than one hundred dollars.

All laws or part of laws in conflict or inconsistent with the provisions of this act are hereby repealed.

MAINE.

ACT OF MARCH 28, 1903.

- § 7. Speed—Rate.
- 8. Speed—Regard to Traffic—Danger—Racing.
- 9. Stopping on Signal.
- 10. Equipment—Signaling Device—Light.
- 11. Local Regulations—Dangerous Places on Highway.
- 12. Penalties.
- 19. Operator's License—Application—Form—Fee, etc.

ACT OF MARCH 24, 1905; REVISED STATUTES, §§ 17-22.

§ 1. Revised Statutes Amended.

§ 17. Registration of Vehicles—Application—Fee—Number, etc.

18. Registration by Manufacturers and Dealers.

20. Operation of Vehicle Conditioned upon Registration.

21. Nonresidents—Vehicles Registered Elsewhere—Drivers Accompanied by Licensed Operator.

22. Penalties.

2. Time of Taking Effect.

[Revised Statutes, c. 24; Act of March 28, 1903; Laws 1903, c. 237.]

§ 7. [*Speed—Rate*].—No automobile or motor vehicle shall be driven or operated upon any highway, town way, public street, avenue, driveway, park or parkway, at a greater rate of speed than fifteen miles an hour, or upon any highway, townway, public street, avenue, driveway, park or parkway, within the compact or built up portions of any city, town or village, the limits of which shall be fixed by the municipal officers thereof, at a greater rate of speed than eight miles an hour, except where such city or town may by ordinance or by-law permit a greater rate of speed.

§ 8. [*Speed—Regard to Traffic—Danger—Racing*].—No person driving or in charge of an automobile or motor vehicle on any highway, townway, public street, avenue, driveway, park or parkway, shall drive the same at any speed greater than is reasonable and proper, having regard to the traffic and use of the way by others, or so as to endanger the life or limb of any person; and racing any such vehicle on any such ways or parks is hereby forbidden.

§ 9. [*Stopping on Signal*].—Every person driving or operating an automobile or motor vehicle shall at request and signal by putting up the hand, or by other visible signal, from a person riding or driving a horse or horses or other domestic animals, cause such vehicle to come to a stop as soon as possible and to remain stationary so long as may be necessary to allow such animal or animals to pass.

§ 10. [*Equipment—Signaling Device—Light*].—Every such automobile or motor vehicle shall have attached thereto a suitable bell or other appliance for giving notice of its approach, which, when rung or otherwise operated, may be heard at a distance of three hundred feet; and shall also carry a lighted lamp between one hour after sunset and one hour before sunrise.

§ 11. [*Local Regulations—Dangerous Places on Highway*].—Municipal officers of any city or town may designate places on any streets or ways therein, where, in their judgment, by reason of cliffs, embankments

or other exceptional natural conditions, the meeting of automobiles or motor vehicles and horses would be attended with unusual danger. Such designation shall be made by causing the words "automobiles—go low" to be conspicuously displayed on signboards at the right hand side of each approach to the place to be designated, and not more than one hundred and fifty feet distant therefrom; and an automobile or motor vehicle, before meeting any horse between such limits, shall be brought to a standstill, and shall not proceed, unless by request of the rider or driver of the horse, until such horse shall have passed; and no such vehicle shall pass any place so designated at a greater speed than four miles an hour.

§ 12. [*Penalties*].—Whoever violates any provision of the five preceding sections shall be punished by fine not exceeding fifty dollars, or by imprisonment not exceeding ten days.

An Act to amend chapter twenty-four of the Revised Statutes relating to registering, numbering and regulating the speed of automobiles and motor vehicles and for licensing the operator thereof.

[Act approved March 24, 1905; Laws 1905, c. 147.]

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

§ 1. [*Revised Statutes Amended*].—Chapter twenty-four of the revised statutes is hereby amended by adding the following sections:

§ 17. [*Registration of Vehicles—Application—Fee—Number, etc.*].—All automobiles and motor vehicles shall be registered by the owner or person in control thereof in accordance with the provisions of this act. Application for such registration may be made, by mail or otherwise, to the Secretary of State upon blanks prepared under his authority. The application shall, in addition to such other particulars as may be required by said secretary, contain a statement of the name, place of residence and address of the applicant, with a brief description of the automobile or motor vehicle, including the name of the maker, the number, if any, affixed by the maker, the character of the motor power and the amount of such motor power stated in figures of horse power; and with such application shall be deposited a registration fee of two dollars. The said secretary shall then register, in a book to be kept for the purpose, the automobile or motor vehicle described in the application, giving to such automobile or motor vehicle a distinguishing number or other mark and shall thereupon issue to the applicant a certificate of registration. Said certificate shall contain the name, place of residence and address of the applicant, and the registered number or

mark, shall prescribe the manner in which said registered number or mark shall be inscribed or displayed upon the automobile or motor vehicle, and shall be in such form as the secretary may determine. The Secretary of State shall also furnish the applicant two enamelled iron plates containing the word "Maine" in letters not less than one inch in height and the number of registration in Arabic numerals not less than four inches in height. The number plates must be attached to the front and back of automobiles and one number plate must be attached to the back of motor cycles. On both automobiles and motor cycles the numbers must be so placed to be always plainly visible. A proper record of all applications and of all certificates issued shall be kept by the Secretary of State in his office and shall be open to the inspection of any person during reasonable business hours. The certificate of registration shall always be carried in some easily accessible place in the automobile or motor vehicle described therein. Upon the sale of any automobile or motor vehicle its registration shall expire, and the vendor shall immediately return the certificate of registration to the Secretary of State, with notice of sale, and of the name, place of residence and address of the vendee.

§ 18. [*Registration by Manufacturers and Dealers*].—Every manufacturer of or dealer in automobiles or motor vehicles, may instead of registering each automobile or motor vehicle owned or controlled by him, make application upon a blank provided by said Secretary of State for a general distinguishing number or mark, and said secretary may, if satisfied of the facts stated in said application, grant said application, and issue to the applicant a certificate of registration containing the name, place of residence and address of the applicant and the general distinguishing number or mark assigned to him, and made in such form as said Secretary of State may determine; and all automobiles and motor vehicles owned and controlled by such manufacturer or dealer shall, until sold or let for hire or loaned for a period of more than five successive days, be regarded as registered under such general distinguishing number or mark. The fee for every such license shall be ten dollars.

§ 19. [*Operator's License—Application—Form—Fee, etc.*].—Licenses for operating automobiles and motor vehicles shall be issued by the Secretary of State. Application shall be made upon blanks prepared by the Secretary of State for this purpose, and the licenses issued shall be in such form and shall contain such provisions as said Secretary of State may determine. To such licensee shall be assigned some distinguishing number or mark, and a proper record of all applications for license and of all licenses issued shall be kept by the Secretary of State at his office, and shall be open to the inspection of any person during reasonable business hours. Each license shall state

the time, place of residence of the licensee and the distinguishing number or mark assigned to him. The fee shall be deposited at the time of making the application. The Secretary of State may at any time suspend or revoke any license for any violation of this act or regulation made thereunder. Before a license to operate is granted, the applicant shall present such evidence as to his qualifications as may be required by the Secretary of State.

§ 20.—[*Operation of Vehicle Conditioned upon Registration*].—Except as otherwise provided herein no automobile or motor vehicle after the first day of June, nineteen hundred five, shall be operated upon any highway, townway, public street, avenue, driveway, park or parkway, unless registered as heretofore provided, and no person shall on or after the first day of June in the year nineteen hundred five, operate an automobile or motor vehicle upon any highway, townway, public street, avenue, driveway, park or parkway, unless licensed to do so under the provisions of this act.

§ 21. [Nonresidents—Vehicles Registered Elsewhere—Drivers Accompanied by Licensed Operator].—Automobiles or motor vehicles owned by nonresidents of this state and driven by a person licensed in this or in some other State may be operated on the roads and highways of this State unless prohibited by special law or town ordinance duly authorized by the legislature, subject, however, to the provisions of sections seven, eight, nine, ten, eleven, and twelve and provided that such person shall show in front and at the back of his automobile and at the back of his motor cycle the registration number granted him in such other State, and the name of the other State in Arabic letters at least one inch high. The provisions of this and the preceding sections shall not prevent the operating of automobiles by unlicensed persons if riding with or accompanied by a licensed operator.

§ 22. [Penalties].—Whoever violates any provision of the five preceding sections shall be punished by fine not exceeding fifty dollars, or by imprisonment not exceeding ten days.

§ 2. [Time of Taking Effect].—This act shall take effect when approved.

[Note: Authority to enact regulations has been conferred by the statutes upon the municipal authorities of some localities.]

MARYLAND.

ACT OF APRIL 5, 1910.

§ 1. Code Provisions Repealed, Reenacted and Added to.

§ 131. Commissioner of Motor Vehicles—Duties—Powers.

132. Definitions—"Motor Vehicle"—"Local Authorities"—
"Owner"—"Highway," etc.

- § 133. Registration—Application—Certificate—Plates.
- 134. Transfer of Registered Vehicle—Return of Fees—Loss of Plates.
- 135. Registration by Manufacturers or Dealers.
- 136. Registration Fees—Dealers' or Manufacturers' Numbers.
- 137. Operator's License—Age and Qualifications of Licensees—Production of License.
- 138. License Fees—Duration of License.
- 139. Suspension or Revocation of License—Record of Convictions.
- 140. Display of Number—Mode—Fictitious Number—Sale of Vehicle.
- 140a. Nonresidents—Registration and License—Violations of Act—Reciprocity Agreements with Other States.
- 140b. Driving Recklessly—Speed—Rates—Civil Actions Not Affected.
- 140c. Approaching Persons, Animals, Crossways, Curves, Hills, Street Cars, etc.—Stopping on Signal.
- 140d. Stopping in Case of Accident—Disclosing Identity—Assistance.
- 140e. Driving While Intoxicated, in Race, or on Bet.
- 140f. Races—Setting Aside Highway—Safeguards.
- 140g. Equipment—Brakes—Signaling Device—Lights.
- 140h. Signaling Devices in Cities, Towns or Villages—Sounding.
- 140i. Leaving Vehicle Unattended—Stopping Motor—Device to Prevent Starting.
- 140k. Tampering with Vehicle—Hurling Missiles.
- 140l. Using Vehicle without Permission—Chauffeurs Receiving Rebates.
- 140m. Rules of the Road—Rule at Crossways.
- 140n. Placing Tacks, Nails, Glass, etc., in Highway.
- 140o. Penalties—Fines—Imprisonment—Second or Subsequent Offenses.
- 140p. Prosecutions—Bail—Jurisdiction—Appeals—Endorsement of License—Erasure of Endorsement.
- 140q. Vehicle Deposited as Bail.
- 140r. Collection and Disposition of Fines.
- 140s. Local Regulations—Signs.
- 140t. Vehicles Not Affected—Traction Engines, Road Rollers, etc.

§ 2. Acts Repealed Hereby.

3. Time of Taking Effect.

An Act to repeal sections 131 to 140, both inclusive, of Article 56 of the Code of 1904 of the Public General Laws of Maryland, title "Licenses," subtitle "Motor Vehicles," as amended by Chapter 449 of the Acts of 1906, and to re-enact the same with amendments, and add additional sections thereto, to be known as Sections 140a, 140b, 140c, 140d, 140e, 140f, 140g, 140h, 140i, 140j, 140k, 140l, 140m, 140n, 140o, 140p, 140q, 140r, 140s, and 140t, the whole to provide for the appointment of a Commissioner of Motor Vehicles, the regulation, operation and registration of motor vehicles, including motorcycles, the licensing of operators of motor vehicles, the tampering with motor vehicles and the unauthorized use of the same; the taking of commissions or other consideration on the sale or purchase of motor vehicles or supplies, parts or labor on the same, the placing in the highways of substances injurious to the feet of persons or animals or tires on wheels of vehicles, the rules of the road applicable to vehicles in general, and the disposition of receipts of the office of said Commissioner of Motor Vehicles.

[Act approved April 5, 1910; Laws 1910, c. 207.]

Be it enacted by the General Assembly of Maryland:

§ 1. [*Code Provisions Repealed, Re-enacted and Added to*].—That sections 131 to 140, both inclusive, of article 56 of the Code of 1904 of Public General Laws of Maryland, title "Licenses," subtitle "Motor Vehicles," as amended by Chapter 449 of the Acts of 1906, be and the same are hereby repealed and re-enacted, and that additional sections, to be known as Sections 140a, 140b, 140c, 140d, 140e, 140f, 140g, 140h, 140i, 140k, 140l, 140m, 140n, 140o, 140p, 140q, 140r, 140s and 140t are hereby enacted, the whole to read as follows:

§ 131. [*Commissioner of Motor Vehicles—Duties—Powers*].—There shall be appointed by the Governor, by and with the consent of the Senate, one sober and discreet person who shall have been a registered voter in the State of Maryland for three consecutive years next preceding the date of his appointment, and who shall be known as the "Commissioner of Motor Vehicles," and shall devote his time to the duties of such office. Said Commissioner shall be subject to removal by the Governor for official misconduct or incompetency, as in the case of other civil officers. Said Commissioner shall be appointed for two years, and the term of his office shall commence on the first Monday of May next ensuing his appointment. He shall hold office until his successor is appointed and qualifies. Said Commissioner of Motor Vehicles shall receive a salary of three thousand dollars (\$3,000) per annum, payable monthly. He shall be required to give bond in the sum of twenty thousand dollars (\$20,000), or

such additional sum as the Governor may require, for the faithful performance of his duties. The Commissioner shall appoint such assistants at such salaries as he may deem necessary, subject to the approval of the Governor. He shall maintain an office in the city of Baltimore, open daily, excepting Sundays and holidays, during such hours as the Governor may prescribe. He shall file with the Governor on the last day of April in each and every year an account of the receipts and disbursements of his office, as provided for in this subtitle. The salaries of said Commissioner and clerk or clerks, together with all office and other expenses, including the cost of the Commissioner's bond, shall be paid out of the receipts of his office. He shall transmit on the first day of each and every month such moneys as may not be needed to carry out the provisions of this subtitle, to the state treasurer, to be used as provided in section 140r hereof, and shall receive a receipt therefor. Said Commissioner shall be conversant with the construction of motor vehicles, and shall be required to make oath that he has personally operated motor vehicles other than motorcycles at least two thousand miles prior to his appointment. Immediately upon the qualification of said Commissioner as provided for in this section, he shall obtain from the Secretary of State all existing records appertaining to the registration of motor vehicles and licensing of chauffeurs, including the names and addresses of owners, and the names of makers, the manufacturer's numbers, and the horsepower of such motor vehicles, and such other information as said records may disclose, and said Commissioner may require, and said Commissioner shall pay therefor to the Secretary of State such an amount as said Secretary of State may certify as necessary to compensate him for the expense incurred in preparing and furnishing such information. In case of the absence of the Commissioner of Motor Vehicles, or of his inability from any cause to perform the duties of his office, the Governor shall designate some properly qualified person to perform such duties, such person to have all the powers and perform all the duties of said Commissioner during such absence or inability as aforesaid, and to receive such compensation per diem and give such bond as the Governor may prescribe. In addition to the specific duties imposed upon the Commissioner of Motor Vehicles by the provisions of this subtitle, it shall be his duty faithfully to exercise every reasonable effort to secure the enforcement of this subtitle, so that motor vehicle traffic in this state shall be reasonably and efficiently regulated with due regard to the convenience of persons using motor vehicles and the safety of the public in general. Said Commissioner shall have power to administer the oath prescribed by law in all cases in which he may deem the

same necessary, in the performance of his duties, prescribed by this subsection.

§ 132. [*Definitions — "Motor Vehicle" — "Local Authorities" — "Owner" — "Highway," etc.*].—Wherever the term "motor vehicle" is used in this subtitle, except when otherwise expressly provided, it shall be taken to include all vehicles, including motor bicycles or motorcycles propelled by any power other than muscular power, except such vehicles as run only upon rails or tracks. The term "local authorities" shall include all officers of counties, cities, towns or villages, as well as all boards, committees and other public officials of such counties, cities, towns or villages. The term "State" as used in this subtitle, except when otherwise expressly provided and except in section 140a, shall also include the territories and federal districts of the United States. The term "owner" shall include any person, firm, association or corporation owning a motor vehicle or having the exclusive use thereof, under lease, hiring or rental thereof, or otherwise. The terms "highway," "roads," "public highway" or "public road" shall include any highway or thoroughfare of any kind used by the public, whether actually dedicated to the public and accepted by the proper authorities or otherwise.

§ 133. [*Registration — Application — Certificate — Plates.*]—Every owner of one or more motor vehicles, including motorcycles, before the same shall be operated in this state and except as hereinafter otherwise provided, shall file with the Commissioner of Motor Vehicles on a blank furnished by the commissioner an application for the registration of such motor vehicles containing: (1) The name, residence and post-office address of the applicant; (2) a brief description of each motor vehicle owned or controlled by him, including the name of the maker, the character of the motor power and the amount of such motor power stated in figures of horsepower as advertised by the maker thereof; (3) the number of cylinders and diameter of the bore of the cylinder stated in inches, and (4) such other information as shall be required by said Commissioner. The horsepower of all motor vehicles propelled by gas engines, except motorcycles, shall be computed and recorded upon the following formula, and the annual license fee hereinafter provided for, paid in accordance therewith: Square the diameter of the cylinder, multiply by the number of cylinders and divide by two and one-half. For all motor vehicles propelled by a steam engine the rating shall be based on the system of rating adopted by the United States Government. Should any other motor power be used, the Commissioner of Motor Vehicles is empowered to adopt such formula to govern their rating as he may deem proper. The said Commissioner of Motor Vehicles, upon payment of the registration fee hereinafter provided for shall file such

application in his office and register such motor vehicle, assigning to it a distinguishing number or mark, and shall thereupon issue to the owner thereof a certificate of registration, which shall contain the name, place of residence and postoffice address of the owner, and the number or mark assigned to such motor vehicle. Such certificate shall be in convenient form and shall at all times be carried upon such motor vehicle, and shall be subject to examination upon demand by any proper officer. Said commissioner shall also, without expense to the applicant, issue and deliver to such owner two duplicate metal plates or markers bearing the letters "Md." and the number or mark assigned to such motor vehicle as aforesaid, the figures thereon to be not less than five inches high, and each stroke to be not less than one-half inch in width. Such plates or markers shall be of a distinctly different color or shade each year, to be designated and selected by the Commissioner of Motor Vehicles, and there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon. In the case of motorcycles one number plate or marker shall be furnished, the letters and figures thereon to be at least one inch high and one-eighth of an inch in width. The certificate provided for in this section and the right to use the number plate or marker aforesaid shall expire at midnight on December thirty-first of each and every year.

§ 134. [*Transfer of Registered Vehicle—Return of Fees—Loss of Plates*].—The Commissioner of Motor Vehicles shall keep a record of all statements filed with him and all certificates issued by him, which record shall be open to public inspection. Upon the transfer of ownership of any motor vehicle, its certificate of registration and the right to use the number plates or markers aforesaid, shall expire, and upon surrender to said commissioner of such certificate and number plates, he shall refund for the remaining months in the year the proportionable part of the fee for the registration of such motor vehicle for the entire year, the amount so refunded to be computed as to entire months and no fraction of months, and said commissioner may, at his discretion, reassign the distinguishing mark or number contained or described in such certificate. In the event any plate or marker issued by said commissioner under the provisions of this or the preceding section shall be lost or destroyed he shall issue a duplicate thereof at cost price. In the event that said commissioner shall be unable to immediately furnish any plate or marker herein provided for to the person entitled thereto, he may issue a certificate to such person stating that such marker has been ordered and giving the number and general design thereof, and such person may thereafter provide and use a temporary plate or marker similar

in form to the plate or marker herein provided for until said required plate or marker has been so furnished.

§ 135. [*Registration by Manufacturers or Dealers*].—Every manufacturer of or dealer in motor vehicles including individuals, corporations and copartnerships, may, instead of registering each motor vehicle owned or controlled by him, it or them, make application upon a blank provided by the Commissioner of Motor Vehicles for a general distinguishing number or mark, and said Commissioner may, if satisfied of the facts stated in said application, grant said application, and issue to the applicant a certificate of registration containing the name, place of residence, and address of the applicant, and the general distinguishing number or mark assigned to dealers in motor vehicles under be made in such form as said Commission may determine, the cost of such distinguishing number or mark and of duplicates thereof to be borne by such applicant; and all motor vehicles owned or controlled by said manufacturer or dealer shall, until sold or loaned or let for hire, be regarded as registered under such general distinguishing number or mark. Nothing in this section shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for private use or for hire, or loaned, in which cases the motor vehicles so used shall be registered and the registration fees paid as in the case of ordinary owners. Nothing in any law or ordinance prohibiting the display in any public park or parks of this state, or any sign or advertising device, shall be taken as applying to the distinguishing number or mark assigned to dealers in motor vehicles under the provisions of this subtitle. All the provisions of section 133 of this subtitle shall apply to manufacturers and dealers, excepting as in this section otherwise provided.

§ 136. [*Registration Fees—Dealers' or Manufacturers' Numbers*]. The following fees shall be paid to the Commissioner of Motor Vehicles for the certificates of registration issued by him in accordance with the provisions of this subtitle:

Class A. Six dollars per annum for each motor vehicle with a rating of twenty horsepower or less; twelve dollars per annum for one with a rating of more than twenty horsepower and not more than forty horsepower, and eighteen dollars per annum for one with a rating of more than forty horsepower.

Class B. Three dollars per annum for each certificate of registration of a motorcycle used only for transportation of merchandise.

Class C. One dollar and eighty cents per annum for each certificate of registration of a motorcycle.

Class D. Twenty-four dollars per annum for each certificate assigning a general distinguishing number or marks to a manufacturer or dealer in motor vehicles other than motorcycles.

Such certificates shall entitle such manufacturer or dealer to use four duplicate sets of the general distinguishing number or mark assigned to him as in section 135 provided and subject to the qualifications in said section, provided the same shall be interchangeable among the cars of such manufacturer or dealer during the current year in which issued, but shall limit the use of such number to four cars at any time; and any manufacturer or dealer wishing to use at one time more than four sets of such general distinguishing number or mark may acquire the right to do so by paying an additional sum of six dollars for each such additional set he may so wish to use, or, if he so elect, may pay a flat sum of one hundred dollars, in which event he may use as many sets as he may desire. And any manufacturer or dealer who shall at any time have attached to or displayed upon his cars, whether in his place of business or on the road, or both, more sets of such distinguishing number or mark than he is entitled to use as aforesaid, shall be deemed guilty of displaying fictitious numbers on all of said cars and shall be subject to a penalty of not exceeding fifty dollars in the case of each of said cars, and in case of a repetition of such offense his right to use such distinguishing number or mark may be revoked by the Commissioner of Motor Vehicles, in his discretion.

Class E. Ten dollars per annum for each certificate assigning a general distinguishing number or mark to a manufacturer or dealer in motorcycles.

The charges herein prescribed shall be for the entire twelve months of the year, and if the certificate is issued in any month after January, one-twelfth is to be deducted from each of the charges above stated for each expired month, but not fractions of a month.

§ 137. [*Operator's License—Age and Qualifications of Licensees—Production of License*].—No person shall operate a motor vehicle upon any highway of this state until he shall have first obtained an operator's license for the purpose, but nothing herein contained shall be taken to prevent the operation of a motor vehicle by an unlicensed person other than a person whose application has been refused or whose license had been suspended or revoked, if accompanied by a licensed operator, which licensed operator shall also be personally liable for any violation of any of the provisions of sections 140b, 140c, 140d, 140e and 140l of this subtitle or nonresident operators, as hereinafter provided. Licenses for operating motor vehicles shall be issued by the Commissioner of Motor Vehicles, but no license shall be issued to any person under the age of sixteen years, excepting for operators of motorcycles who shall not be under the age of fourteen years; provided that persons over fourteen years of age and under sixteen years of age may, upon special examination as to capac-

ity to operate, receive a special license to operate any motor vehicle belonging to such person, his or her father or guardian. Applications for licenses shall be made upon blanks furnished by said commissioner, and said application blanks and said licenses shall be in such form and contain such provisions, not inconsistent with this subtitle, as said Commissioner may determine. The Commissioner may require, in addition, should he deem necessary, an actual demonstration of the qualifications of the person applying for such license, and may refuse to issue the same if, in his judgment, the safety of the public would be jeopardized thereby, but said applicant shall have the right to appeal if license is refused, as provided in section 139 of this subtitle. A number shall be assigned to each licensee, and a proper record of all applications for licenses and of all licenses issued shall be kept by said Commissioner at his office and shall be open to public inspection. Each license shall state the name, age, place of residence and postoffice address of the licensee and the number assigned to him, and shall entitle the licensee to operate any car of any make. Said license certificate shall at all times be carried by the licensee when he is operating a motor vehicle upon the highways of this state, and shall be subject to examination upon demand by any proper person, and said licensee shall have endorsed thereon in the proper handwriting of the licensee the name of said licensee and, when requested by a proper officer in the discharge of his duties under the law, said licensee shall write his name in the presence of said officer, to the end that the identity of said licensee may be determined. No license badge shall be worn.

§ 138. [*License Fees—Duration of License*].—The following fees shall be paid the Commissioner of Motor Vehicles for licenses to operate motor vehicles in this state: Two dollars to operate motor vehicles other than motorcycles, and one dollar to operate motorcycles; provided, however, that any one who before this subtitle becomes effective has paid for and obtained a license to operate motor vehicles in this state, or has obtained an owner's certificate or registration, can, by making the application required in section 137 of this subtitle and by surrendering such certificate of license to the Commissioner of Motor Vehicles, receive therefor, without cost, an operator's license under this subtitle; subject, however, to the other provisions of said section 137. Such license shall be good until suspended or revoked as hereinafter provided, and shall not be required to be renewed annually.

§ 139. [*Suspension or Revocation of License—Record of Convictions*].—The Commissioner of Motor Vehicles may, after due hearing, upon not less than three days' notice in writing, said notice to be sent by registered letter to the address given by the operator when

applying for license certificate, which shall constitute sufficient form of notice, suspend or revoke the operator's license issued to any person under section 137 of this subtitle, for any cause which he may deem sufficient; but every applicant for an operator's license whose application shall be refused by said Commissioner, and every licensee whose operator's license shall be suspended or revoked by said Commissioner, may appeal to the Governor of this state from such decision, refusal, suspension or revocation, the decision of the Governor to be final, and such appeal not to operate as a stay of such order or decision by the Commissioner. A full record shall be kept by every court or justice of the peace of this state of every case in which a person is convicted of a violation of any of the provisions of sections 140a, 140b, 140c, 140d, 140e and 140l of this subtitle, and a certified abstract of such record shall within ten days after the date of such conviction, be transmitted by such court or justice of the peace to the Commissioner of Motor Vehicles. Said courts and justices of the peace shall furnish to said Commissioner the details of all flagrant cases which may be heard before them, and they may make such recommendations to said Commissioner as to the suspension or revocation of the operator's licenses of the parties defendant in such cases as they may deem proper. Said Commissioner shall keep such records in his office, and they shall be open to public inspection. Whenever any person licensed to operate a motor vehicle upon the public highways of this state shall have been convicted of any violation of any of the provisions of sections 140a, 140b, 140c, 140d, 140e and 140l of this subtitle, the Commissioner may, in his discretion, suspend or revoke the operator's license of such person, and upon a third conviction within the period of twelve calendar months, said person shall, in addition to the penalties for such offense, incur a forfeiture of his operator's license, and the said Commissioner shall thereupon revoke and require a return of the same. No person shall, for the period of three months from the date of the revocation of his operator's license be capable of receiving a new operator's license, nor thereafter, except in the discretion of the Commissioner.

§ 140. [*Display of Number—Mode—Fictitious Number—Sale of Vehicle*].—Every motor vehicle, except motorcycles, and as hereinafter otherwise provided, shall at all times while being used or operated in this state, have displayed, entirely unobscured and kept reasonably clean, the number plates or markers issued by the Commissioner of Motor Vehicles for such motor vehicle as hereinafter provided. One of such plates or markers shall be displayed conspicuously on the front, and the other on the rear of such motor vehicle, the one on the rear to be fastened so as not to swing. Every motorcycle, while being used or operated in this state, shall have displayed

on the rear thereof the plate or marker furnished by the Commissioner of Motor Vehicles as aforesaid, said plate or marker to be so fastened as to be entirely unobstructed and to be kept reasonably clean. No motor vehicle while used or operated in this state shall have displayed upon either the front or rear of such vehicle more than two plates or markers; nor shall any person display or permit to be displayed upon any motor vehicle operated by him the registration number belonging to another vehicle, or a fictitious number plate or marker; provided, however, that in the event of the sale of a motor vehicle, the person using the same may for a period of five days, and no longer, operate such motor vehicle under the number assigned to it as aforesaid, provided he have and display on demand of any proper officer the actual consent in writing of such previous owner to use such number; and provided, also, that where it clearly appears that the registration number has been lost by accident, no penalty shall be imposed.

§ 140a. [*Nonresidents—Registration and License—Violations of Act—Reciprocity Agreements With Other States*].—Any owner or operator not a resident of this state who shall have complied with the laws of the state in which he resides, requiring the registration of motor vehicles or licensing of operators thereof and the display of identification or registration numbers on such vehicles, and who shall cause the identification numbers of such state, in accordance with the laws thereof, and none other, together with the initial letter of said state, to be displayed on his motor vehicle, as in this subtitle provided, while used or operated upon the public highways of this state, may use such highways not exceeding two periods of seven consecutive days in each calendar year, without complying with the provisions of sections 133 and 137 of this subtitle; if he obtains from the Commissioner of Motor Vehicles and displays on the rear of such vehicle a tag or marker which the said Commissioner of Motor Vehicles shall issue in such form and contain such distinguishing marks as he may deem best; provided, that if any nonresident be convicted of violating any provisions of sections 140b, 140c, 140d, 140e and 140f of this subtitle, he shall thereafter be subject to and required to comply with all the provisions of said sections 133 and 137 relating to the registration of motor vehicles and the licensing of operators thereof; and the Governor of this state is hereby authorized and empowered to confer and advise with the proper officers and legislative bodies of other states of the Union and enter into reciprocal agreements under which the registration of motor vehicles owned by residents of this state will be recognized by such other states, and he is further authorized and empowered, from time to time, to grant to residents of other states the privilege of using

the roads of this state as in this section provided in return for similar privileges granted residents of this state by such other states.

§ 140b. [*Driving Recklessly—Speed—Rates—Civil Actions Not Affected*].—No person shall operate a motor vehicle or motorcycle on any public highway of this state recklessly, or at a rate of speed greater than is reasonable and proper, having regard to the width, traffic and use of the highway, so as to endanger the property or life or limb of any person. If the rate of speed of a motor vehicle operated upon the public highway of this state exceeds twelve miles per hour in the thickly settled or business parts of cities, towns or villages, or eighteen miles per hour in the outlying or not thickly settled parts of cities, towns or villages, or twenty-five miles per hour in the open country outside of the limits of cities, towns or villages, such rate of speed shall be prima facie evidence that the person operating such vehicle is operating the same at a rate of speed greater than is reasonable and proper, and in violation of the provisions of this section, and the burden of proof shall be upon him to show that such rate of speed was not greater than was reasonable and proper, as above set forth. Nothing in this section, or any other section of this subtitle, shall be taken in any way to add or detract from the right of any person injured in his person or property by the negligent operation of a motor vehicle to sue and recover damages as in the case of the negligent use or operation of other vehicles, and the violation of any provision of this subtitle shall not be taken to give any right of action to any individual who would not be entitled to the same in the absence of such provision.

§ 140c. [*Approaching Persons, Animals, Crossways, Curves, Hills, Street Cars, etc.—Stopping on Signal*].—Upon approaching any person walking in the traveled portion of any public highway, or a horse or any animal being led, ridden or driven thereon, or a sharp turn, or a curve, or a deep descent, and also in passing such person or such horse or other animal, and in traversing such crossing, bridge, turn, curve or descent, and in approaching or about to pass or passing a street car which has stopped or is about to stop to receive or discharge passengers, the person operating a motor vehicle or motorcycle shall have the same under control and shall reduce its speed to a reasonable and proper rate. If such horse or other animal being so led, ridden or driven shall appear to be frightened, or if the person in charge thereof shall signal so to do by raising his or her hand vertically, the person operating such motor vehicle or motorcycle shall bring the same to a stop, and if traveling in the opposite direction shall remain stationary so long as may be reasonable to allow such horse or other animal to pass, or if traveling in the same direction, shall use reasonable caution in thereafter passing such horse

or animal, but no person shall give such a signal to stop unless necessary.

§ 140d. [*Stopping in Case of Accident—Disclosing Identity—Assistance*].—In case of any accident, such as collision with a person, animal or vehicle, the operator of the motor vehicle in such collision must immediately stop and give his name, residence and the number of his license to operate, upon demand, and render such assistance as may be reasonable and necessary, within his power.

§ 140e. [*Driving while Intoxicated, in Race, or on Bet*].—No person shall operate a motor vehicle on the public highways of this state when intoxicated or at all under the influence of liquor or drug, or in a race, or on a bet or wager, except as hereinafter provided.

§ 140f. [*Races—Setting Aside Highway—Safeguards*].—The Board of County Commissioners, or the proper local authorities having charge of the roads and highways (in Baltimore city the Board of Police Commissioners) may in their discretion set aside for a given time a specified public highway for speed contests or contests between motor vehicles, to be conducted under such proper restrictions as they may determine for the safety and convenience of the public.

§ 140g. [*Equipment — Brakes — Signaling Device — Lights*].—Every motor vehicle while in use on the public highways of this state shall be provided with adequate brakes and with a suitable bell, horn or other device for signaling, and, excepting motorcycles, shall during the period of from one hour after sunset to one hour before sunrise display two or more white lights on the forward part of such vehicle, so placed as to be seen from the front and of sufficient illuminating power to be visible at a distance of two hundred feet, and shall also display on the rear of such vehicle a lamp so placed that it shall show a red light from the rear and a white light at the side, and a motorcycle shall display on the forward part one white light; provided, however, that the operator of such motor vehicle may proceed to his destination in event of a bona fide failure of his lights to operate, if he sounds his bell, horn or other signaling device at least once in every two hundred feet, does not proceed at a rate of speed greater than one mile in six minutes, and takes the first reasonable opportunity to put his lights in order, otherwise to be deemed guilty of a violation of the foregoing provision.

§ 140h. [*Signaling Devices in Cities, Towns or Villages—Sound-ing*].—Within the limits of cities, towns or villages only horns blown by means of hand pressure upon a rubber bulb shall be used, or small electric bells of moderate sound. The horn or other signaling device shall be used for the purpose of giving a signal of approach whenever necessary to prevent injury to other persons using the high-

ways, and shall not be sounded while passing a horse or other animal in the open country.

§ 140i. [*Leaving Vehicles Unattended—Stopping Motor—Device to Prevent Starting*].—No person operating or in charge or control of any steam or electric motor vehicle in this state shall allow the same to stand unattended on any highway without securing or locking the lever or other device by which the same is started, or taking other reasonable precautions to prevent such vehicle being started by unauthorized persons; and no person operating or in charge or control of any gasoline motor vehicle shall leave the same unattended as aforesaid without first stopping the motor and cutting off the electric current.

§ 140k. [*Tampering With Vehicle—Hurling Missiles*].—No person shall, without authority of the owner or person in charge thereof, climb upon or into any automobile, whether the same is in motion or at rest, or hurl stones or other missiles at the same, or at the occupants thereof, or while such motor vehicle is at rest and unattended, sound any horn or other signal device, or attempt to manipulate any of the levers, the starting crank, brakes or machinery thereof, or set said vehicle in motion, or otherwise damage, tamper or interfere with the same.

§ 140l. [*Using Vehicle Without Permission—Chauffeurs Receiving Rebates*].—No chauffeur or other person shall drive or operate any motor vehicle upon any street or highway of this state in the absence of the owner of such motor vehicle, without his consent. No chauffeur or other person having the care of a motor vehicle for the owner shall receive or take, directly or indirectly, any bonus, discount or other consideration, on supplies or parts furnished or purchased for such motor vehicles, or on any work or labor done thereon by others, or on the purchase of any motor vehicle for his employer; and no person furnishing such supplies or parts, work or labor or selling any motor vehicle, shall give or offer any such chauffeur or other person having the care of a motor vehicle for the owner, directly or indirectly, any bonus, discount or other consideration thereon. Chauffeurs, while operating motor vehicles on the public highways of this state, shall be subject to all the provisions and penalties prescribed in this subtitle.

§ 140m. [*Rules of the Road—Rules at Crossways*].—All vehicles when being driven upon the highways of this state, upon meeting others, shall turn to the right of the center of the highway, so as to pass without interference; and any vehicle overtaking another going in the same direction shall pass to the left of the vehicle so overtaken; said vehicle so overtaken shall promptly, upon signal, turn to the right in order to allow free passage on the left. At the inter-

section of public highways all vehicles shall keep to the right of the center of such highways when turning to the right, and pass to the right of the center of such intersection when turning to the left.

§ 140n. [*Placing Tacks, Nails, Glass, etc., in Highway*].—No person shall knowingly throw or place, or cause to be thrown or placed, on or upon any highway or bridge, any tacks, nails, wire, scrap metal, glass, crockery or other substance injurious to the feet of persons or animals, or to the tires or wheels of vehicles, including motor vehicles.

§ 140o. [*Penalties—Fines—Imprisonment—Second or Subsequent Offenses*].—Any person violating any provisions of sections 137, 139, 140d, 140e or 140l of this subtitle shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than ninety days, or both, for each and every offense. Any person violating any other provision of this subtitle shall be fined not more than fifty dollars (\$50) for each first offense. In default of the payment of any of the above fines, there shall be imposed an imprisonment in the county or city jail, as the case may be, for a period not exceeding one day for each one dollar of the fine so imposed, the imprisonment in no event to exceed ninety days for any single offense; provided that any offender who shall have been found guilty of the violation of any provision of this subtitle and made to pay a fine or suffer imprisonment therefor, and who shall be convicted of a second or additional offense of the same provision committed within six months from date of conviction of the first offense may for such second or additional offense be fined in double the amount therein prescribed for the first offense, or may be imprisoned as aforesaid for a period not exceeding six months for a violation of sections 137, 139, 140d, 140e or 140l, or not exceeding thirty days for a violation of any other section of this subtitle, or both, and in the event of the nonpayment of the fine imposed for such second offense there may be imposed an imprisonment in the county or city jail, as the case may be, for a period not exceeding one day for each one dollar of the fine so imposed, the imprisonment in no event to exceed six months for any single second offense committed as aforesaid.

§ 140p. [*Prosecutions—Bail—Jurisdiction—Appeals—Endorsement of License—Erasure of Endorsement*].—In case any person shall be taken into custody because of a violation of any of the provisions of this subtitle, he shall forthwith be taken in the counties of this state before the nearest justice of the peace, committing magistrate or police justice, or, if in Baltimore city, before the nearest police justice, and be entitled to an immediate hearing; and if such hearing cannot then be had, he shall be released from custody on giving bond or undertaking executed by a fidelity or surety company authorized to give such bonds in this state, or by a person or persons acceptable as

surety or sureties by said magistrate or police justice, such bond or undertaking to be in an amount equal to the maximum amount prescribed as the fine for such offense and to be conditioned for his appearance at the time and place set for the hearing of the charges preferred against him or on giving his personal undertaking to appear as aforesaid, secured by the deposit of a sum equal to the maximum amount prescribed as the fine for such offense, and in case such bond or deposit made as aforesaid, the provisions of law in reference to bail in cases of misdemeanor shall apply. In all complaints of the violation of any of the provisions of this subtitle the justice of the peace, committing magistrate or police justice before whom the alleged offender is taken as aforesaid shall have jurisdiction to hear and determine such complaint and impose the fine or sentence herein provided; but any person so convicted of any offense under this subtitle shall have the right to appeal from the judgment of such justice of the peace, committing magistrate or police justice of the Criminal Court of Baltimore, if convicted in Baltimore city, or court of criminal jurisdiction of any county in which he may be so convicted, and such court on such appeal shall hear the case *de novo*; provided, however, that such appeal shall be taken within thirty days from the date of judgment. Upon appeal being prayed as aforesaid, it shall be the duty of the magistrate to endorse upon the papers "appeal prayed," and transmit the same to the proper court as aforesaid. It shall not be necessary in such case for the grand jury to find either presentment or indictment, nor shall formal pleading be required, but the trial of all such cases on appeal shall be had upon the original papers transmitted to said court by the justice of the peace, committing magistrate or police justice as aforesaid, the defendant or traversers upon such appeal being entitled to have a jury trial. In the event of such appeal the judgment, sentence or decision so appealed from shall be stayed by the giving of security as hereinbefore provided for, but in case such security be not given, the fine and costs imposed shall be paid and the same returned to the party paying the same in the event of reversal on appeal. The justice of the peace or court before whom a final conviction shall be had under the provisions of sections 140a, 140b, 140c, 140d, 140e or 140f of this subtitle, shall endorse upon or attach to the license certificate of the person so convicted the date and particulars of such conviction; and any person destroying, erasing or concealing said endorsement or statement so attached, or failing to display the same, together with said license certificate, when required so to do by the provisions of this subtitle, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined a sum not exceeding two

hundred dollars, or imprisonment for a period not exceeding thirty days, or both.

§ 140q. [*Vehicle Deposited as Bail*].—Any person arrested for violating any of the provisions of this subtitle may tender as bail a motor vehicle or motorcycle of which he is the owner, and if such vehicle is of sufficient value it shall be accepted as security for his appearance in lieu of any other bail.

§ 140r. [*Collection and Disposition of Fines*].—All fines, penalties and forfeitures of bonds imposed or collected under any of the provisions of this subtitle shall be paid over within ten days after the receipt thereof to the Commissioner of Motor Vehicles, with a statement accompanying the same, setting forth the action or proceeding in which such moneys were collected, the name and residence of the defendant, the nature of the offense, and the fine, penalty, forfeiture or sentence, if any, imposed. And this section shall not be considered as repealed by the passage hereafter of any law providing for a different disposition of fines and penalties in any county or other municipal division of this state, unless the same contains a repeal of this section by express reference thereto. Said Commissioner of Motor Vehicles is hereby empowered, in the name of the State of Maryland, to take all steps necessary to enforce the collection and prompt return of all such fines, penalties and forfeitures of bonds, and when any motor vehicle shall have been deposited as security under the provisions of this subtitle, and said security is forfeited, the same may be disposed of by the Commissioner of Motor Vehicles, or, under his direction, by the officer having the said motor vehicle in charge, at public auction, and the proceeds thereof dealt with pursuant to the provisions of this subtitle, unless within ten days after notice by mail to the owner of such motor vehicle, or the person leaving the same as security, the same shall be redeemed. All moneys received by the Commissioner of Motor Vehicles pursuant to the provisions of this subtitle, except such as shall be necessary for his salary and the expenses of his office as hereinbefore provided shall be accounted for and remitted by said Commissioner to the State Treasurer, who shall create a special fund thereof, and on the first day of April in each year one-fifth thereof to be paid to the mayor and city council of Baltimore for use on its roads and streets, and the balance to be used for the oiling, maintenance and repair of the modern roads now being built by the state and counties, and for no other purpose. Disbursements of the remaining four-fifths from this fund shall be made by the treasurer to the counties on drafts for expenditures which have actually been made in repairs on state aid roads certified to by the Maryland Geographical and Economic Survey Commission, and

to the State Roads Commission for expenditures which have actually been made in repairs on state roads constructed by that body, on draft from such body itself. The State Roads Commission shall not receive in any year out of the whole fund available for distribution a greater proportion than the proportion which the total mileage of state roads completed to April 1st of any year shall bear to the total mileage of both state aid roads and state roads completed to that date. And no county shall receive in any year from such fund a greater proportion than its total mileage of state aid roads to the total mileage of state aid roads completed before April 1st in any year. The remainder of said fund shall be distributed among the counties in the proportion aforesaid.

§ 140s. [*Local Regulations—Signs*].—Any town or village in any county which has any local law or regulation of the speed of motor vehicles or which shall hereafter adopt the same, and which shall regulate such speed in a manner different from that provided in this subtitle, shall give notice of the same by posting a notice printed in a plain and legible manner and in letters not less than four inches high, on the right side of the road or roads entering the said town or village in any county at the boundary line of the same and stating the local speed limit, and unless the notice is posted and maintained as aforesaid in a conspicuous manner, then the speed regulation provided in this subtitle shall prevail, any such local law or regulation to the contrary notwithstanding.

§ 140t. [*Vehicles Not Affected—Traction Engines, Road Rollers, etc.*].—All motor vehicles used by the police department of any city, town, village or county of this state, and all motor vehicles used by the fire department or salvage corps of any city, town, village or county of this state, and all ambulances, road rollers, street sprinklers, street sweepers or cleaners or traction engines used for the hauling of agricultural machinery, are hereby exempt from the provisions of this subtitle.

§ 2. [*Acts Repealed Thereby*].—And be it enacted that all acts and parts of acts and laws and parts of laws inconsistent herewith or contrary hereto, be and the same are hereby repealed to the extent of such inconsistency.

§ 3. [*Time of Taking Effect*].—And be it enacted that this act shall take effect upon and from the date of its passage, but no prosecution based upon violations of sections 133, 134, 135, 136, 137, 138 and 140 of this Act shall be brought for any offense committed prior to July 1, 1910; provided, that the plates and markers required by section 132 of chapter 449 of the Acts of 1906 are displayed upon such vehicles as required by said section 132 of chapter 449 of the Acts

of 1906; and provided, that until July 1, 1910, certificates of registration of motor vehicles shall be issued by the Secretary of State as in chapter 449 of the Acts of 1906 provided.

MASSACHUSETTS.

ACT OF JUNE 19, 1909.

- § 1. Definitions—"Automobile"—"Chauffeur"—"Dealer"—"Garage"—"Way," etc.
- 2. Registration of Vehicles—Application—Number—Fees—Transfer of Vehicles—Plates.
- 4. Registration by Manufacturers and Dealers.
- 6. Display of Number—Mode.
- 7. Equipment—Brakes—Muffler—Signalling Device—Lights—Device to Prevent Unauthorized Use.
- 9. Operation Conditioned upon Compliance Herewith.
- 11. Certificate of Registration and License to Be Carried.
- 12. Employment of Unlicensed Chauffeurs Forbidden.
- 13. Driver Impeding Facility of Operation—Leaving Vehicle Unattended.
- 15. Driving Upon Ways from Which Vehicles Are Excluded.
- 17. Local Regulations—Exclusion of Vehicles from Certain Ways.
- 18. Penalties—Filing Complaint—Third Offense—Revocation of License.
- 19. Arrest without Warrant—Prosecution—Bail.
- 20. Suspension or Revocation of Certificate or License.
- 21. Penalties—Operation after Suspension or Revocation of License or Certificate—Respecting Number Plates and Badges.
- 22. Penalties—Recklessness—Drunkenness—Racing—Running Away after Accident—Using Vehicle without Authority—Revocation of License or Registration.
- 23. Penalties—Disclosing Identity to Officer—Stopping—Producing License or Certificate.
- 24. Record of Convictions—Data Supplied by Courts.
- 25. Commission—Powers—Witness—False Testimony—Enforcement of Orders.
- 26. Commission—Investigators—Powers—Special Constables—Notice of Accidents, etc.
- 27. Commission—Powers—Regulations.
- 28. Manufacturers, Dealers and Garage Keepers—Records.
- 29. Fees—Registration—Renewal—Nonresidents—Diplomats—Number Plates.

- § 30. Fees and Fines—Disposition—Expenditures of Commission.
- 31. Acts and Regulations Repealed Hereby.
- 32. Construction with Reference to Existing Statutes.
- 33. Time of Taking Effect.

ACT OF MAY 13, 1910.

Hiring Vehicle with Intent to Defraud—Refusal to Pay, etc.

ACT OF JUNE 10, 1910.

- § 1. Nonresidents—Vehicle Registered Elsewhere—Use in State—Display of Number—Registration.
- 2. Display of Number—Mode—Illumination—Loss of Number.
- 3. Operator's License—Application—Fees—Qualifications of Applicants—Motorcycles.
- 4. Necessity for License—Driving with Licensed Operator—Nonresidents.
- 5. Approaching Horses—Stopping—Passing Street Cars and Pedestrians—Warning—Character of Signal—Smoke—Cutting Out Muffler—Rule at Crossways.
- 6. Speed—Regard to Traffic—Rates.

An Act relative to motor vehicles and to the operation thereof.

[Act approved June 19, 1909; Laws 1909, c. 534.]

Be it enacted, etc., as follows:

§ 1. [*Definitions*—"Automobile"—"Chauffeur"—"Dealer"—"Garage"—"Way," etc.].—Terms used in this chapter shall be construed as follows, unless a different meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intention of the legislature:

"Automobile" shall include all motor vehicles except motor cycles

"Chauffeur" shall mean any person who operates a motor vehicle other than his own and who directly or indirectly receives pay or any compensation whatsoever for any work or services in connection with motor vehicles, except only manufacturers, agents, proprietors of garages, and dealers, who do not operate for hire. An employee of a manufacturer or a dealer whose principal occupation is that of salesman may at the discretion of the commission be exempted from this definition and be designated as an operator.

"Commission" shall mean the Massachusetts highway commission.

"Dealer" shall include every person who is engaged in the business of buying, selling or exchanging motor vehicles, on commission or otherwise, and every person who lets for hire two or more motor vehicles.

"Garage" shall mean every place where five or more motor vehicles

are stored or housed at any one time for pay, except only such places in which motor vehicles are kept by the owners thereof without payment for storage.

"Intersecting way" shall mean any way which joins another at an angle, whether or not it crosses the other.

"Motor cycle" shall apply only to motor vehicles having but two wheels in contact with the ground, and a saddle on which the driver sits astride.

"Motor vehicle" shall include automobiles, motor cycles and all other vehicles propelled by power other than muscular power, except railroad and railway cars and motor vehicles running only upon rails or tracks, ambulances, fire engines and apparatus, police patrol wagons and other vehicles used by the police department of any city or town or park board solely for the official business of such department or board, road rollers, and street sprinklers.

"Non-resident" shall apply to residents of states or countries who have no regular place of abode or business in this commonwealth for a period of more than three months in the calendar year.

"Number 'plate" shall mean the sign or marker furnished by the commission on which is displayed the register number or mark of an automobile assigned to such automobile by the commission.

"Operator" shall mean any person who operates a motor vehicle, other than a chauffeur.

"Person," wherever used in connection with the registration of a motor vehicle, shall include all corporations, associations, partnerships or other aggregations of individuals who own or control such vehicles as owners, or for the purpose of sale, or for renting, as agents, salesmen or otherwise.

"Police officer" or "officer" shall include any constable or other officer authorized to make arrest or serve process, provided he is in uniform or displays his badge of office.

"Register number" shall apply to the number or mark assigned by the commission to a motor vehicle, whether or not such number or mark includes a letter or letters; and said number or mark, except on motor cycles, shall always be in separate Arabic numerals at least four inches in height, with strokes not less than one half of an inch in width.

"Thickly settled or business part of a city or town" shall mean the territory of a city or town contiguous to any way which is built up with structures devoted to business, or the territory of a city or town contiguous to any way where the dwelling houses are situated at such distances as will average less than two hundred feet between them for a distance of a quarter of a mile or over.

"Way" shall mean any public highway, private way laid out under authority of statute, street, avenue, road, alley, park or parkway.

§ 2. [*Registration of Vehicles—Application—Number—Fees—Transfer of Vehicle—Plates*].—Application for the registration of motor vehicles may be made by the owner thereof, by mail or otherwise, to the Massachusetts highway commission or any agent thereof designated for that purpose, upon blanks prepared under its authority. The application shall contain, in addition to such other particulars as may be required by the commission, a statement of the name, place of residence and address of the applicant, with a brief description of the motor vehicle, including the name of the maker, the number, if any, affixed by the maker, the character of the motor power and the amount of such motor power stated in figures of horse power; and with such application shall be deposited the proper registration fee as provided in section twenty-nine. The commission or its duly authorized agent shall then register in a book or upon suitable index cards to be kept for the purpose the motor vehicle described in the application, giving to said vehicle a distinguishing number or other mark to be known as the register number for that vehicle, and shall thereupon issue to the applicant a certificate of registration. The certificate shall contain the name, place of residence and address of the applicant and the register number or mark, and shall be in such form and contain such further information as the commission may determine. An applicant for the registration of a motor vehicle who does not file his application therefor until after the thirtieth day of September in any year shall be entitled to a reduction in the fee for such registration as provided in section twenty-nine. Upon the transfer of ownership of any motor vehicle its registration shall expire, and the person in whose name such vehicle is registered shall forthwith return the certificate of registration to the commission with a written notice containing the date of such transfer of ownership and the name, place of residence and address of the new owner. A person who transfers the ownership of a registered motor vehicle owned by him to another, upon the filing of a new application and upon payment of the proper fee, may have registered in his name another motor vehicle for the remainder of the calendar year, provided the horse power of such motor vehicle is the same as that of the motor vehicle first registered by him, or if the vehicle sought to be registered is a motor cycle; but if the horse power of the automobile is greater than that of the automobile first registered by him, the applicant shall pay, in addition to the said fee, the difference between the fee paid by him for the said vehicle first registered and the fee for the registration of an automobile of the higher horse power, as provided in section twenty-nine. A person who before the first day of August in any year trans-

fers the ownership of an automobile registered in his name, and who applies for the registration of another motor vehicle of less horse power than that of the vehicle so transferred, shall be entitled, upon payment of the proper fees set forth in section twenty-nine, to a rebate equivalent to one half the difference between the respective fees for the higher and the lower horse powers, and a person under like conditions who does not apply for the registration of another automobile shall be entitled to a rebate of one half the fee paid for the registration of such vehicle; provided, however, that no such rebate shall be paid except upon a certificate filed with the auditor of the commonwealth, setting forth the facts, and signed by the commission, and that the rebate shall be paid out of the fees received for the registration of automobiles and motor vehicles. The commission, at its discretion, may assign to the motor vehicle of any person who surrenders his registration certificate as herein provided and who desires to register another motor vehicle the register number of the motor vehicle described in the surrendered certificate. The commission shall furnish at its office without charge to every person whose automobile is registered as aforesaid two number plates of suitable design, each number plate to have displayed upon it the register number assigned to such vehicle, but no such number plates shall be furnished by the commission for motor cycles. The commission shall furnish in like manner to every person whose motor cycle is registered as aforesaid a seal, circular in form, approximately two inches in diameter, bearing thereon the words "Registered Motor Cycle No. ——— Mass." together with the year of the issue thereof and with the register number of the motor cycle stamped or otherwise suitably inscribed thereon. Such number plates and seals so furnished shall be valid only for the calendar year for which they are issued. If the commission shall determine at any time that for any reason a motor vehicle is unsafe or improperly equipped or otherwise unfit to be operated it may refuse to register such vehicle, and the commission may for like reasons revoke any registration already recorded. The horse power of every automobile sought to be registered shall be determined by the commission, and such determination shall be final and conclusive. Every application filed under the provisions of this section shall be sworn to by the applicant before a justice of the peace or a notary public. The fee for such oath shall not exceed twenty-five cents. The registration of every motor vehicle shall expire at midnight upon the thirty-first day of December in each year.

§ 3. [Superseded by Act of June 10, 1910, § 1.]

§ 4. [*Registration by Manufacturers and Dealers*].—Every manufacturer of or dealer in motor vehicles may make application, by mail

or otherwise, upon a blank provided by the commission for a general distinguishing number or mark instead of registering each motor vehicle owned or controlled by him, and with such application shall be deposited the proper registration fee, as provided in section twenty-nine; and the commission may grant the application, if satisfied of the facts stated in the application, and issue to the applicant a certificate of registration containing the name, business address of the applicant and the general distinguishing number or mark assigned to him, and made in such form and containing such further information as the commission may determine; and all motor vehicles owned or controlled by such manufacturer or dealer shall be regarded as registered under such general distinguishing number or mark until sold or let for hire or loaned for a period of more than five successive days. The commission shall furnish at its office without charge to every manufacturer of or dealer in automobiles whose vehicles are registered in accordance with the provisions of this section five pairs of number plates of suitable design, the plates to have displayed upon them the register number which is assigned to the motor vehicles of such manufacturer or dealer, with a different letter or letters or mark on each pair of number plates, but no such number plates shall be furnished by the commission for motor cycles. The commission shall furnish at the price stated in section twenty-nine to every person whose vehicles are registered as aforesaid as many seals for motor cycles as such person shall apply for, said seals to be circular in form, approximately two inches in diameter, bearing thereon the words "Registered Motor Cycle No. ——— Mass." together with the year of the issue thereof and with the register number or mark of the manufacturer or dealer stamped or suitably inscribed thereon, and each seal so furnished shall also bear a different letter or letters. Such number plates and seals shall be valid only for the calendar year for which they are issued. Every application filed under the provisions of this section shall be sworn to by the applicant before a justice of the peace or a notary public. The fee for such oath shall not exceed twenty-five cents. Every such registration shall expire at midnight upon the thirty-first day of December in each year.

§ 5. [Superseded by Act of June 10, 1910, § 2.]

§ 6. [*Display of Number—Mode*].—Every motor cycle operated in or on any way shall have displayed conspicuously the seal bearing the register number furnished in accordance with the provisions of sections two, three and four of this act for such vehicle. Said seal shall be fastened securely to some part of the vehicle or to some contrivance firmly attached thereto, in the rear of the saddle.

§ 7. [*Equipment — Brakes — Muffler — Signalling Device — Lights*

—Device to Prevent Unauthorized Use.—Every motor vehicle of more than ten horse power operated in or on any way shall be provided with at least two brakes, powerful in action and separated from each other, of which one brake shall act directly on the driving wheels or on parts of the mechanism which are firmly connected with said wheels. Each of the two brakes shall suffice alone to stop the motor vehicle within a proper distance. One of the two brakes shall be so arranged as to be operated with the feet; provided, however, that on automobiles not exceeding ten horse power one brake shall be deemed to be sufficient. Every motor cycle shall be provided with at least one brake which may be operated by hand. Every motor vehicle so operated shall be provided with a muffler or other suitable contrivance to prevent unnecessary noise and with a suitable bell, horn or other means of signalling, and with suitable lamps; and shall be provided with a lock, a ratchet brake which can be set, a key or other contrivance to prevent such vehicle from being set in motion by unauthorized persons, or otherwise, contrary to the will of the owner or person in charge thereof. Every automobile operated during the period from one half an hour after sunset to one half an hour before sunrise shall display at least two white lights, and every motor cycle so operated at least one white light, which shall be visible not less than two hundred feet in the direction toward which the vehicle is proceeding; and every such motor vehicle shall display at least one red light in the reverse direction. Every automobile so operated shall have a rear light so placed as to show a red light from behind and a white light so arranged as to illuminate and not obscure the rear register number.

§ 8. [Superseded by Act of June 10, 1910, § 3.]

§ 9. [*Operation Conditioned upon Compliance Herewith*].—No motor vehicle shall be operated after midnight on the thirty-first day of December in the year nineteen hundred and nine unless registered in accordance with the provisions of this act, nor unless such vehicle is equipped as provided in sections five, six and seven, except as is otherwise provided in section three.

§ 10. [Superseded by Act of June 10, 1910, § 4.]

§ 11. [*Certificate of Registration and License to Be Carried*].—Every person operating an automobile shall have the certificate of registration for the vehicle and his license to operate upon his person or in the vehicle in some easily accessible place, except that the certificates of registration of dealers need not so be carried. Every person operating a motor cycle shall have the certificate of registration for such vehicle upon his person. If for any reason the commission or its agents are unable to issue promptly to an applicant the

certificate of registration or the license applied for they may issue a receipt for the fee or fees paid, and said receipt shall be carried in lieu of the certificate or license as the case may be, and for the period of thirty days from the date of its issue said receipt shall have the same force and effect given to the certificate or license by the provisions of this act.

§ 12. [*Employment of Unlicensed Chauffeurs Forbidden*].—No person shall employ for hire as a chauffeur or operator of a motor vehicle any person not specially licensed as aforesaid.

§ 13. [*Driver Impeding Facility of Operation—Leaving Vehicle Unattended*].—No chauffeur or operator, when operating a motor vehicle, shall have or permit to be on or in such vehicle or on or about his person anything which may interfere with or impede the proper operation of the vehicle or of any of the machinery or appliances by which the vehicle is operated or controlled. No person having control or charge of a motor vehicle shall allow such vehicle to stand in any public street or way and remain unattended without first locking or making it fast or effectively setting the brakes thereon, and stopping the motor of said vehicle.

§ 14. [Superseded by Act of June 10, 1910, § 5.]

§ 15. [*Driving upon Ways from Which Vehicles Are Excluded*].—No person shall operate a motor vehicle nor shall any owner of such vehicle permit it to be operated in or over any way, public or private, whether laid out under authority of law or otherwise, from which motor vehicles are excluded, provided notice of such exclusion is conspicuously posted at the entrance to such way.

§ 16. [Superseded by Act of June 10, 1910, § 6.]

§ 17. [*Local Regulations—Exclusion of Vehicles from Certain Ways*].—The city council of a city or the board of aldermen of a city having no common council, and the selectmen of a town, and boards of park commissioners, as authorized by law, may make special regulations as to the speed of motor vehicles and as to the use of such vehicles upon particular ways, and may exclude such vehicles altogether from certain ways; provided, however, that no such special regulation shall be effective unless it shall have been published in one or more newspapers, if there be any, published in the city or town in which the way is situated, otherwise in one or more newspapers published in the county in which the city or town is situated; nor unless notice of the same is posted conspicuously by the city, town, or board of park commissioners making the regulation at points where any way affected thereby joins other ways; nor until after the Massachusetts highway commission shall have certified in writing, after a

public hearing, that such regulation is consistent with the public interest; and no regulation shall be valid which excludes motor vehicles from any state highway or from any main highway leading from any city or town to another. No ordinance, by-law or regulation now in force in any city or town or in any park or parkway which regulates the speed at which motor vehicles shall be run upon its ways or which excludes such vehicles therefrom or which governs or restricts the use of such vehicles shall hereafter have any force or effect, and all signs and other notices relating to the speed, operation and use of motor vehicles which have not been authorized under the provisions of this act shall be removed forthwith from all ways; provided, however, that no ordinance, by-law or regulation now in force upon the island of Nantucket relating to the use or operation of motor vehicles shall be affected by the provisions of this act, and provided further, that nothing herein contained shall be construed as affecting the right of the metropolitan park commission, as now authorized by law, to make rules and regulations governing the use and operation of motor vehicles on lands, roadways, and parkways under its care and control, nor as affecting any such rule or regulation already made by said metropolitan park commission, nor as affecting any sign or other notice already placed or posted by or under the direction of said metropolitan park commission.

§ 18. [*Penalties—Filing Complaint—Third Offense—Revocation of License*].—Any person convicted of a violation of any provision of this act, or who is convicted of the violation of any rule or regulation of the Massachusetts highway commission made under authority of section twenty-seven, or who is convicted of a violation of a special speed regulation lawfully made under authority of section seventeen, may be punished by a fine of not less than ten dollars nor more than twenty-five dollars for the first offense and not less than twenty-five dollars nor more than fifty dollars for a second offense, and not less than fifty dollars nor more than one hundred dollars for subsequent offenses committed during any period of twelve months. A complaint against a person for the violation of sections eleven, sixteen or seventeen of this act may be placed on file at the discretion of the court or trial justice if the violation appears to have been unintentional or if no person or property could have been endangered thereby. Upon a third or subsequent conviction in the same calendar year of a violation of section sixteen or of section seventeen of this act the commission shall forthwith revoke the license of the person so convicted, and no new license shall be issued to such person for at least thirty days after the date of such conviction, nor thereafter except in the discretion of said commission.

§ 19. [*Arrest Without Warrant—Prosecution—Bail*].—Any officer

authorized to make arrests may arrest without warrant and keep in custody for not more than twenty-four hours, unless Sunday intervenes, any person operating a motor vehicle on any street or way who does not have in his possession a license to operate motor vehicles granted to him by the commission, and who violates any statute, by-law, ordinance or regulation relating to the operation or control of motor vehicles; and at or before the expiration of said period of time such person shall be brought before a proper magistrate and proceeded against according to law. The operator of any motor vehicle who is arrested as aforesaid and solely because he has violated a provision of section sixteen or of section seventeen of this act shall be admitted to bail for his appearance in court upon the deposit of one hundred dollars in cash in lieu of a bail bond, with any person authorized to take bail.

§ 20. [*Suspension or Revocation of Certificate or License*].—The commission may suspend or revoke any certificate of registration or any license issued to any person under the provisions of this act, after due hearing, for any cause which it may deem sufficient, and the commission may suspend the license of any operator or chauffeur in its discretion and without a hearing, and may order the license to be delivered to it, whenever it has reason to believe that the holder thereof is an improper or incompetent person to operate motor vehicles, or is operating improperly or so as to endanger the public; and neither the certificate of registration nor the license shall be reissued, unless, upon examination or investigation, or after a hearing, the commission determines that the operator or chauffeur should again be permitted to operate.

§ 21. [*Penalties—Operation after Suspension or Revocation of License or Certificate—Respecting Number Plates and Badges*].—Any person convicted of operating a motor vehicle in this commonwealth after his license to operate has been suspended or revoked, and any person convicted of operating or causing or permitting any other person to operate a motor vehicle after the certificate of registration for such vehicle has been suspended or revoked, and any person who attaches or permits to be attached to a motor vehicle a number plate or seal assigned by the commission to another vehicle, or who obscures or permits to be obscured the figures on any number plate or seal attached to any motor vehicle, or who fails to display on a motor vehicle the number plate or seal and the register number duly issued therefor with intent to conceal the identity of such motor vehicle, or who wears a chauffeur's badge not furnished to him by the commission, or who with intent to conceal his identity wears a chauffeur's badge belonging to another person, shall be punished by

a fine of not more than one hundred dollars or by imprisonment for a term of ten days, or by both such fine and imprisonment.

§ 22. [*Penalties — Recklessness — Drunkenness — Racing — Running Away After Accident—Using Vehicle Without Authority—Revocation of License or Registration*].—Whoever upon any way operates an automobile or motor cycle recklessly or while under the influence of intoxicating liquor, or so that the lives or safety of the public might be endangered, or upon a bet, wager or race, or who operates a motor vehicle for the purpose of making a record and thereby violates any provision of sections sixteen and seventeen of this act, or who knowingly goes away without stopping and making himself known after causing injury to any person or property, or who uses a motor vehicle without authority, shall be punished by a fine of not more than two hundred dollars or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment; and if any person be convicted a second time of operating an automobile while under the influence of intoxicating liquor, he shall be punished by imprisonment for a term of not less than one year and not more than two years. A conviction of a violation of this section shall be reported forthwith by the court or trial justice to the commission, which shall revoke immediately the license of the person so convicted. If it appears by the record of the commission that the person so convicted is the owner of a motor vehicle, or has exclusive control of any motor vehicles as a manufacturer or dealer, the commission may revoke the certificate of registration of all motor vehicles so exclusively owned or controlled. Whenever any person so convicted appeals the commission shall suspend forthwith the license of the person so convicted, and shall order the license delivered to it, and shall not reissue said license unless such person is acquitted in the appellate court, or unless the commission in its discretion, after an investigation or upon a hearing, decides to reissue it. No new license or certificate shall be issued by the commission to any person convicted of a violation of this section until after sixty days from the date of such final conviction, nor thereafter except in the discretion of the commission.

§ 23. [*Penalties—Disclosing Identity to Officer—Stopping—Producing License or Certificate*].—Any person who, while operating or in charge of a motor vehicle, shall refuse when requested by a police officer to give his name and address, or the name and address of the owner of such motor vehicle, or who shall give a false name or address, or who shall refuse or neglect to stop when signalled to stop by any police officer who is in uniform or who displays his badge conspicuously on the outside of his outer coat or garment, or who refuses on demand of such officer to produce his license to operate

such vehicle or his certificate of registration, or to permit such officer to take the license or certificate in hand for the purpose of examination, or who refuses on demand of such officer to sign his name in the presence of such officer, and any person who on the demand of an officer of the police or other official mentioned in section twenty-six of this act, or authorized by the commission, without a reasonable excuse fails to deliver his license to operate motor vehicles or the certificate of registration of any motor vehicle operated or owned by him, or the number plates or seal furnished by the commission for said motor vehicle, or who refuses or neglects to produce his license when requested by a court or trial justice, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

§ 24. [*Record of Convictions—Data Supplied by Courts*].—A full record shall be kept by every court and trial justice in this commonwealth of every case in which a person is charged with a violation of any provision of this act or of any other act relative to motor vehicles or to the operation of such vehicles, and an abstract of such record shall be sent forthwith by the court or trial justice to the commission. Said abstracts shall be made upon forms prepared by the commission, and shall include all necessary information as to the parties to the case, the nature of the offense, the date of the hearing, the plea, the judgment and the result; and every such abstract shall be certified by the clerk of the court or by the trial justice as a true abstract of the record of the court. The commission shall keep such records in its main office, and they shall be open to the inspection of any person during reasonable business hours. Courts and trial justices shall, upon their own initiative or upon the request of the commission or its agents, furnish to the commission the details of all particularly flagrant cases which may be heard before them; and they may make such recommendations to the commission as to the suspension or revocation of the licenses and certificates of registration of the persons defendant in such cases as they may deem necessary.

§ 25. [*Commission — Powers — Witnesses — False Testimony — Enforcement of Orders*].—In the administration of the laws and regulations relative to motor vehicles and to the operators and the operation thereof, any member of the Massachusetts highway commission or its secretary, if so authorized by said commission, may summon witnesses in behalf of the commonwealth and may administer oaths and take testimony. The commission may also cause depositions to be taken, and may order the production of books, papers, agreements and documents. Any person who swears or affirms falsely in regard to any matter or thing respecting which an oath or affirmation is required by the commission or by this act shall be deemed guilty of perjury. The fees for the attendance and travel of witnesses shall

be the same as for witnesses before the superior court, and shall be paid by the commonwealth upon the certificate of the commission filed with the auditor. The supreme judicial court or the superior court shall have jurisdiction in equity, upon the application of the commission, to enforce all lawful orders of the commission under this section. One of the employees of the commission shall be a justice of the peace, who shall administer any oath required by this act without charge therefor.

§ 26. [*Commission—Investigators—Powers—Special Constables—Notice of Accidents, etc.*].—The commission shall appoint from time to time competent persons to act as investigators and examiners; it may remove them for cause and appoint others in their places and it may determine their compensation and terms of service and define their duties. Said inspectors and examiners, with respect to the enforcement of all provisions of law relative to motor vehicles and to the ownership and operation thereof, shall have and exercise throughout the commonwealth all the powers of constables, except the service of civil process, and of police officers and watchmen, including the power to arrest any person who violates any provision of this act, and they may serve all processes lawfully issued by the courts or by the commission. The commission may investigate the cause of any accident in which any motor vehicle is involved which in its judgment requires investigation. The selectmen of any town and the mayor and aldermen of any city of less than one hundred thousand inhabitants where there is no police commission or police commissioner, and the police commission or police commissioner, when such exist, of any such city, may from time to time appoint suitable persons as special constables who shall serve without cost to such city or town, and who shall have all the powers of police officers and constables in relation to the enforcement of all laws and regulations concerning motor vehicles and the operation thereof. The chief officer of the police department of every city and town and the chairman of the selectmen of such towns as have no regular police department shall notify the commission forthwith of the particulars of every serious accident which happens within the limits of their respective city or town in which a motor vehicle is involved, and as a result of which a death occurs or appears likely to occur, and shall also, if possible, ascertain the name of the operator of such vehicle and notify the commission of the same. Every such officer, upon the request of the commission, shall demand forthwith the license of and operator and the certificate of registration and number plates or seal of any motor vehicle situated within the limits of the city or town where such officer resides when said license or certificate has been suspended or revoked by the commission, and shall forward the same to the

commission. Whenever the death of any person results from any such accident, the commission shall suspend forthwith the license of the operator of the automobile or the certificate of registration of the motor cycle involved in said accident and shall order the said license or certificate to be delivered to it; and the commission shall revoke the same unless, upon investigation or after a hearing, it determines that the accident occurred without serious fault upon the part of said operator or chauffeur. No operator or chauffeur whose license is revoked under the provisions of this section shall be licensed again within six months after the date of the suspension, nor thereafter except in the discretion of the commission. A proper record of all applications and of all certificates and licenses issued shall be kept by the commission at its main office, and such records shall be open to the inspection of any person during reasonable business hours. The commission may issue or cause to be issued a certified copy, attested by its secretary, of any certificate of registration or of any license to operate motor vehicles, which may have been lost or mutilated, upon the written request of the person entitled thereto; and such certified copies shall have the same force and effect as the originals.

§ 27. [*Commission—Powers—Regulations*].—The commission may prepare rules and regulations from time to time governing the use and operation of motor vehicles and the conduct of operators and chauffeurs, and may from time to time alter, rescind or add to any rules and regulations previously made by it. The rules and regulations of the commission, and any changes therein, shall take effect when approved by the governor and council and published in at least one newspaper printed and published in each county of the commonwealth, and such publication shall be sufficient notice to all persons. The sworn certificate of any member of the commission or of its secretary that such rules and regulations have been published as herein provided shall be prima facie evidence thereof. A copy of such rules and regulations attested by any member of the commission or by its secretary shall be prima facie evidence that they have been made by the commission and approved by the governor and council as provided by law. This section shall not be construed as giving the Massachusetts highway commission power to regulate the speeds at which motor vehicles may be operated on the public ways.

§ 28. [*Manufacturers, Dealers and Garage Keepers—Records*].—Every manufacturer of and dealer in motor vehicles, and every owner, proprietor, person in control, or keeper of a garage, shall keep or cause to be kept in a book a proper record of every automobile which enters and which leaves his garage, stable, shop or place of business. Said book shall have columns and headings substantially as follows: [A form is set forth.] Every person operating or running a motor

vehicle into or out of a garage, or into or out of a stable, shop or place of business of a manufacturer or dealer, shall enter or cause to be entered in said book, in the columns under the proper headings, the date and time of entering and leaving, the register number and letter, if any, of the motor vehicle, and the full name of the operator or chauffeur. In the case of motor vehicles operated or run into or out of a garage by others than chauffeurs, the record shall be kept by the owner, proprietor or person in control of the garage, or by some employee or employees specially designated for this duty, and the said owner, proprietor or person in control of such garage, shall be responsible for the proper keeping of said record. All entries in said book shall be made legibly, in ink or with an indelible pencil. The said book shall be kept in some convenient place, and shall be open at all times to the inspection of the commission and its agents and of any police officer or constable.

§ 29. [*Fees — Registration — Renewal — Nonresidents — Diplomatics — Number Plates*].—The commission or its authorized agents shall collect fees as follows:

For the registration of every motor cycle, including the right of the owner thereof to operate the vehicle, two dollars.

For the registration of every commercial motor vehicle, used solely as such, and every motor truck, regardless of the horse power thereof, five dollars.

For the registration of every automobile of less than twenty horse power, five dollars.

For the registration of every automobile of twenty horse power and above, but less than thirty horse power, ten dollars.

For the registration of every automobile of thirty horse power and above, but less than forty horse power, fifteen dollars.

For the registration of every automobile of forty horse power and above, but less than fifty horse power, twenty dollars.

For the registration of every automobile of fifty horse power and above, twenty-five dollars.

For the registration of the motor vehicles owned by or under the control of a manufacturer of or dealer in motor vehicles, if such person operates upon the public ways not more than five automobiles, twenty-five dollars and five dollars for every automobile in excess of five so operated.

For the registration of all of the motor cycles owned by or under the control of a manufacturer of or dealer in motor cycles who does not manufacture or deal in automobiles, including ten seals to be furnished with the certificate of registration, ten dollars.

For the registration of every motor vehicle owned by a nonresident who applies for registration under the provisions of section three of

this act, and for the registration of every automobile, and of the motor vehicles owned by or under the control of a manufacturer of or dealer in motor vehicles, who applies therefor during the period beginning with the first day of October and ending on the thirty-first day of December, in any year, in accordance with the provisions of section two or of section four of this act, one half of the foregoing fees.

For the substitution of the registration of an automobile for that of a vehicle previously registered in accordance with the provisions of section two of this act, two dollars.

For the substitution of the registration of a motor cycle for that of a motor cycle previously registered in accordance with the provisions of section two of this act, one dollar.

For every original operator's or chauffeur's license to operate automobiles, two dollars.

For every renewal of any operator's or chauffeur's license to operate automobiles, fifty cents.

For every examination given to an applicant for a license or for the renewal of a license to operate motor vehicles, two dollars.

For every additional copy of a certificate of registration or license, fifty cents.

For every additional number plate furnished to replace such plates as have been lost or mutilated, or which are illegible, and for every additional number plate furnished to a manufacturer of or dealer in motor vehicles whose business requires more than five pairs of such plates, seventy-five cents.

For every additional seal furnished to replace such seals as have been lost or mutilated, or which are illegible, and for every seal furnished to a manufacturer of or dealer in automobiles for use on motor cycles owned by or under the control of such person, fifty cents: provided, however, that the commission or its authorized agents may furnish without charge copies of certificates of registration and licenses to operate, and copies of other documents relating thereto, to officers of the commonwealth or of any court thereof or of a city or town therein; and the commission may issue certificates of registration for motor vehicles and licenses to operate the same to any member of the foreign diplomatic corps without the payment of the fees therefor.

§ 30. [*Fees and Fines—Disposition—Expenditures of Commission*].—The fees and fines received under the provisions of this act, together with all other fees received by the commission or any other person under the laws of the commonwealth relating to the use and operation of motor vehicles, shall be paid monthly by the secretary of the commission or by the person collecting the same into the treas-

ury of the commonwealth, and shall be used by the commission for such expenses as may be authorized by the general court to carry out the provisions of law regulating the use of motor vehicles; and the balance shall be expended, under the direction of the commission, for the maintenance of state highways without specific appropriation by the general court, in addition to all sums already or hereafter appropriated by the general court for the same purpose. No bills or schedules for work or materials contracted for under the provisions of this section shall be paid unless such bills and schedules are approved by the commission, nor until after audit and certification by the auditor of the commonwealth as required by law for expenditures under specific appropriations. The provisions of section sixteen of chapter forty-seven of the Revised Laws shall not apply to any expenditure made under authority of this section out of the said fees and fines, and the counties shall not be required to repay to the commonwealth any part of such expenditures.

§ 31. [*Acts and Regulations Repealed Hereby*].—All rules and regulations heretofore made by the commission concerning the use and operation of motor vehicles are hereby repealed. Chapter four hundred and seventy-three of the acts of the year nineteen hundred and three; chapters three hundred and eleven and three hundred and sixty-six of the acts of the year nineteen hundred and five; chapters three hundred and fifty-three and four hundred and twelve of the acts of the year nineteen hundred and six; chapters two hundred and three, four hundred and eight, four hundred and ninety-four and five hundred and eighty of the acts of the year nineteen hundred and seven; chapters six hundred and forty-two and six hundred and forty-eight of the acts of the year nineteen hundred and eight, and all other acts and parts of acts inconsistent herewith, are hereby repealed.

§ 32. [*Construction with Reference to Existing Statutes*].—The provisions of this act, so far as they are the same as those of existing statutes, shall be construed as a continuation thereof, and not as new enactments; and a reference in a statute which has not been repealed to provisions of law which have been revised and re-enacted herein shall be construed as applying to such provisions as so incorporated in this act. The repeal of a law by this act shall not affect any act done, ratified or confirmed, or any right accrued or established, or any action, suit or proceeding begun under any of the laws repealed before the repeal took effect; but the proceedings in such case shall, when necessary, conform to the provisions of this act.

§ 33. [*Time of Taking Effect*].—Sections seven, fourteen, sixteen and seventeen of this act shall take effect on the first day of July in the year nineteen hundred and nine; the provisions of this act which relate to the preparation of forms, to the filing of applications for

certificates of registration and for licenses, and to the distribution of number plates and seals shall take effect on the first day of December in the year nineteen hundred and nine; and, except as otherwise provided in this section, this act shall take effect at midnight on the thirty-first day of December in the year nineteen hundred and nine.

An Act relative to the fraudulent hiring and use of automobiles and other vehicles.

[Act approved May 13, 1910; Acts 1910, c. 516.]

Be it enacted, etc., as follows:

[*Hiring Vehicle with Intent to Defraud—Refusal to Pay, etc.*].—Section fifty-five of chapter two hundred and eight of the Revised Laws is hereby amended by striking out the word "or", in the first, fourth, sixth, seventh and eighth lines, by inserting after the word "carriage", in the same lines, the words:—automobile or other vehicle, —and by striking out the word "or," where it first occurs in the ninth line, and inserting after the word "carriage," in the same line, the words:—automobile or other,—so as to read as follows:—Section 55. Whoever hires a horse, carriage, automobile or other vehicle and, with intent to cheat or defraud the owner thereof, makes to him or to his agent, at the time of such hiring, a false statement of the distance which he proposes to travel with such horse, carriage, automobile or other vehicle, or whoever, with such intent, makes to the owner or his agent, after the use of a horse, carriage, automobile or other vehicle, a false statement of the distance which he has actually travelled with such horse, carriage, automobile or other vehicle, and whoever, with such intent, refuses to pay for the use of a horse, carriage, automobile or other vehicle the lawful hack, carriage, automobile or other fare established therefor by any city or town, shall be punished by a fine of not more than twenty dollars or by imprisonment for not more than two months, or by both such fine and imprisonment.

An Act relative to motor vehicles and to the operation thereof.

[Act approved June 10, 1910; Laws 1910, c. 605.]

Be it enacted, etc., as follows:

§ 1. [*Nonresidents—Vehicle Registered Elsewhere—Use in State—Display of Number—Registration*].—Section three of chapter five hundred and thirty-four of the acts of the year nineteen hundred and nine is hereby amended by inserting after the word "state," in the

third line, the words:—or country,—by striking out the words "a period," in the fifth line,—by inserting after word "days," in the same line, the words:—in any one calendar year,—and by inserting after the word "ten," in the sixth line, the words:—provided, that said state or country grants similar privileges to residents of this commonwealth, and the commission shall from time to time determine what states or countries do or do not grant similar privileges, and its determination shall be final,—so as to read as follows:—Section 3. A motor vehicle owned by a nonresident of this state, who has complied with the laws relative to motor vehicles and the operation thereof of the state or country in which he resides, may be operated on the ways of this state for not exceeding ten days in any one calendar year without registration, except as otherwise provided in section ten: provided, that said state or country grants similar privileges to residents of this commonwealth, and the commission shall from time to time determine what states or countries do or do not grant similar privileges and its determination shall be final. Every such vehicle so operated shall have displayed upon it the distinguishing number or mark of the state in which the owner thereof resides, and none other until the vehicle is registered in accordance with the provisions of this act. If the vehicle be an automobile said number or mark shall be displayed upon two number plates substantially as provided in section five. A motor vehicle so owned may be operated also in this state during the months of July, August and September in any one year if application for the registration thereof is made in accordance with the provisions of section two, and the proper fee provided for in section twenty-nine is paid and the said vehicle is duly registered by the commission or its authorized agent. The commission shall furnish at its office without charge to every person whose automobile is registered as aforesaid two number plates of suitable design, each number plate to have displayed upon it the register number assigned to such vehicle, but no such number plates shall be furnished by the commission for motorcycles. The commission shall furnish in like manner to every person whose motorcycle is registered as aforesaid a seal, circular in form, approximately two inches in diameter, bearing thereon the words "Registered Motorcycle No. ——— Mass.," together with the year of the issue thereof and with the registered number of the motorcycle stamped or otherwise suitably inscribed thereon. Such number plates and seals shall be valid only during the period of time for which they are issued. Every application filed under the provisions of this section shall be sworn to by the applicant before a justice of the peace or a notary public. The fee for such oath shall not exceed twenty-five cents. Every such

registration shall expire at midnight upon the thirtieth day of September in each year.

§ 2. [*Display of Number—Mode—Illumination—Loss of Number*].—Section five of said chapter is hereby amended by striking out the word "thirty-six," in the tenth line, and inserting in place thereof the word:—forty-eight,—so as to read as follows:—Section 5. Every automobile operated in or on any way in this commonwealth shall have its registered number displayed conspicuously thereon on the two number plates furnished by the commission, in accordance with the provisions of sections two, three and four, one number plate to be attached at the front and the other at the rear of said vehicle, so that the said number plates and the register number thereon shall be always plainly visible. The bottom of each number plate shall be horizontal, and not less than eight and not more than forty-eight inches from the ground. The said number plates shall be kept clean and the numbers legible, and during the period when the vehicle is required to display lights the rear register number shall be illuminated so as to be plainly visible at a distance of sixty feet. No number plates other than such as are procured from the commission or such as may be authorized by it for temporary use, except as provided in section three, shall be displayed on any automobile so operated; and if any number plate supplied by the commission is lost or mutilated or if the register number thereon becomes illegible, the owner or person in control of the automobile for which said number plate was furnished shall apply in writing to the commission for a new number plate, and deposit with his application the sum of seventy-five cents for each new number plate, and thereupon the commission shall issue to such applicant a permit allowing him to place a temporary number plate bearing his register number upon said automobile until a number plate of the regular design is made and delivered to said applicant: provided, however, that all such temporary number plates and the register numbers thereon shall conform to the regular number plates and be displayed as nearly as may be as herein provided for said regular number plates.

§ 3. [*Operator's License—Application—Fees—Qualifications of Applicants—Motorcycles*].—Section eight of said chapter is hereby amended by striking out the words "and the commission shall furnish to every chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon without extra charge therefor," in the twenty-sixth to the twenty-ninth lines, inclusive,—and by striking out the words "Said badge shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid," in the thirtieth to the thirty-second lines, inclusive,—so as to read as follows:—Section 8. Application to operate automobiles may

be made, by mail or otherwise, to the commission or its duly authorized agent upon blanks prepared under its authority. The fees provided in section twenty-nine shall be deposited with the application. Before such a license is granted the applicant shall pass such examination as to his qualifications as the commission shall require, and no license shall be issued until the commission or its authorized agent is satisfied that the applicant is a proper person to receive it. No operator's license shall be issued to any person under sixteen years of age. To each person shall be assigned some distinguishing number or mark, and the licenses issued shall be in such form as the commission shall determine; they may contain special restrictions and limitations concerning the type of motor power, horse power, design and other features of the automobiles which the licensee may operate; they shall contain the distinguishing number or mark assigned to the licensee, his name, place of residence and address, and a brief description of the licensee for purposes of identification; and such other information as the commission shall deem necessary. A person to whom a license to operate automobiles has been issued, unless such license contains a special limitation or restriction, may operate any registered motorcycle. Special licenses shall be issued to chauffeurs, but no such license shall be issued to any person less than eighteen years of age. Every person licensed to operate automobiles as aforesaid shall endorse his usual signature on the margin of the license, in the space provided for the purpose, immediately upon the receipt of said license, and such license shall not be valid until so endorsed. All licenses to operate motor vehicles, heretofore commonly called "private operators' licenses," and other than those of chauffeurs, shall expire at midnight upon the thirty-first day of December in the year nineteen hundred and nine, and thereafter all licenses issued to operators and chauffeurs shall be valid for one year only from the date of issue. A person whose motorcycle has been registered in accordance with the provisions of sections two and three of this act may operate such motorcycle without a license from the commission, and the certificate of registration for said vehicle shall be evidence of the right of the owner thereof to operate it while said registration is in force. Every application filed under the provisions of this section shall be sworn to by the applicant before a justice of the peace or a notary public. The fee for such oath shall not exceed twenty-five cents.

§ 4. [*Necessity for License—Driving with Licensed Operator—Non-residents*].—Section ten of said chapter is hereby amended by striking out all after the word "do," in the thirty-eighth line, so as to read as follows:—Section 10. No person shall operate a motor vehicle upon any way in this commonwealth unless licensed under the pro-

visions of this act, except as is otherwise herein provided; but the provisions of this section shall not prevent the operation of motor vehicles by unlicensed persons if riding with or accompanied by a licensed chauffeur or operator, excepting only persons who have been licensed and whose licenses are not in force because of revocation or suspension, and persons less than sixteen years of age; but such licensed chauffeur or operator shall be liable for the violation of any provision of this act or of any regulation made in accordance herewith committed by such unlicensed operator: provided, however, that the examiners of chauffeurs and operators, in the employ of the commission, when engaged in their official duty, shall not be liable for the acts of any person who is being examined. During the period of ten days within which a motor vehicle of a nonresident may be operated on the ways of this state in accordance with the provisions of section three, such vehicle may be operated by its owner or by his chauffeur or employee without a license from the commission, if the operator is duly licensed under the laws of the state in which he resides, or has complied fully with the laws of the state of his residence respecting the licensing of operators of motor vehicles; but if any such nonresident or his chauffeur or employee be convicted by any court or trial justice of violating any provision of the laws of this commonwealth relating to motor vehicles or to the operation thereof, whether or not he appeals, he shall be thereafter subject to and required to comply with all the provisions of this act relating to the registration of motor vehicles owned by residents of this commonwealth and the licensing of the operators thereof. A record of the trial shall be sent forthwith by the court or trial justice to the commission. Except as hereinbefore provided, no person shall operate a motor vehicle for hire or as a chauffeur unless specially licensed by the commission so to do.

§ 5. [*Approaching Horses—Stopping—Passing Street Cars and Pedestrians—Warning—Character of Signal—Smoke—Cutting Out Muffler—Rule at Crossings*].—Section fourteen of said chapter is hereby amended by striking out the word "and," after the word "sidewalk," in the eighteenth line, and inserting in place thereof the words:—or where the operator's view is obstructed either,—by striking out the words "where the operator's view is obstructed," in the twentieth line,—and by inserting after the word "signalling," in the twenty-third line, the words:—provided, that in the thickly settled part of a city or town no bell, horn or other device for signalling shall be sounded so as to make a harsh, objectionable or unreasonable noise, except in the case of fire and police department vehicles and ambulances; and provided, further, that no operator of any motor vehicle shall at any time permit any unreasonable amount of smoke to escape from

such motor vehicle, nor shall said operator at any time permit such motor vehicle to make any unnecessary noise, by cutting out the muffler, or otherwise,—so as to read as follows:—Section 14. Every person operating a motor vehicle shall bring the vehicle and the motor propelling it immediately to a stop when approaching a horse or other draft animal being led, ridden or driven, if such animal appears to be frightened and if the person in charge thereof shall signal so to do; and, if travelling in the opposite direction to that in which such animal is proceeding, said vehicle shall remain stationary so long as may be reasonable to allow such horse or animal to pass; or, if travelling in the same direction, the person operating shall use reasonable caution in thereafter passing such horse or other animal. In approaching or passing a car of a street railway which has been stopped to allow passengers to alight or embark, the operator of every motor vehicle shall slow down and if it be necessary for the safety of the public he shall bring said vehicle to a full stop. Upon approaching a pedestrian who is upon the travelled part of any way and not upon a sidewalk, or where the operator's view is obstructed either upon approaching an intersecting way or a curve or corner in a way, every person operating a motor vehicle shall slow down and give a timely signal with his bell, horn, or other device for signalling: provided, that in the thickly settled part of a city or town no bell, horn or other device for signalling shall be sounded so as to make a harsh, objectionable or unreasonable noise, except in the case of fire and police department vehicles and ambulances; and provided, further, that no operator of any motor vehicle shall at any time permit any unreasonable amount of smoke to escape from such motor vehicle, nor shall said operator at any time permit such motor vehicle to make any unnecessary noise, by cutting out the muffler, or otherwise. The driver of any motor vehicle on any highway approaching a crossing of ways, shall slow down and keep to the right of the intersection of the centres of both ways, when turning to the right, and shall pass to the right of the intersection of the centres of said ways before turning to the left.

§ 6. [*Speed—Regard to Traffic—Rates*].—Section sixteen of said chapter is hereby amended by inserting after the word "way," in the sixteenth line, the words:—at a rate of speed exceeding eight miles per hour where the operator's or chauffeur's view of the road traffic is obstructed either,—and by striking out all after the words "way," in the nineteenth line,—so as to read as follows:—Section 16. Every person operating a motor vehicle on any way in this commonwealth shall run it at a rate of speed at no time greater than is reasonable and proper, having regard to traffic and the use of the way and the safety of the public. It shall be *prima facie* evidence of a rate of

speed greater than is reasonable and proper as aforesaid if a motor vehicle is operated on any way outside of the thickly settled or business part of a city or town at a rate of speed exceeding twenty miles per hour for the distance of a quarter of a mile. It shall be prima facie evidence of a rate of speed greater than is reasonable and proper as aforesaid if a motor vehicle is operated on any way inside the thickly settled or business part of a city or town at a rate of speed exceeding fifteen miles per hour for the distance of one eighth of a mile, or if a motor vehicle is operated on any way at a rate of speed exceeding eight miles per hour where the operator's or chauffeur's view of the road traffic is obstructed either upon approaching an intersecting way, or in traversing a crossing or intersection of ways, or in going around a corner or a curve in a street or way.

MICHIGAN.

ACT OF JUNE 16, 1905.

- § 1. Using Vehicle without Permission—Penalty.
- 2. Refusal to Pay—Probative Force.
- 3. Posting Copy of Act on Premises.

ACT OF APRIL 14, 1909.

- § 1. Hiring Vehicle with Intent to Defraud—Penalty.

ACT OF JUNE 2, 1909.

- § 1. Definitions—"Motor Vehicle"—"Chauffeur"—"Owner"—"Public Highway," etc.
- 2. Subdiv. 1. Registration of Motor Vehicles.
 - 2. Registration Book.
 - 3. Number Plate.
 - 4. Furnishing Registration Lists to County Clerks.
 - 5. Reregistration Annually.
 - 6. Registration Fees.
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- 3. Subdiv. 1. Distinctive Number on Motor Vehicles.
 - 2. Change of Color of Number Plate Annually.
 - 3. Form of Number Plate.
- 4. Subdiv. 1. Registration by Manufacturers and Dealers.
 - 2. Reregistration Annually.
- 5. Exemption of Nonresident Owners.

- § 6. Subdiv. 1. Brakes, Horns, Lamps, etc.
- 2. Use of Nonskidding Devices.
- 3. Stopping on Signal—Horse Becoming Frightened.
- 4. Rules of the Road—Meeting—Rule at Crossways.
- 5. Rules of the Road—Overtaking—Assistance.
- 6. Accidents—Assistance—Disclosure of Identity.
- 7. Subdiv. 1. Rate of Speed—Regard to Traffic—Speed at Curves, Hills, Crossways, etc.
- 2. Speed when Passing Others—Warning—Care.
- 3. Local Authorities—Regulations—Signs.
- 8. Subdiv. 1. Registration of Chauffeurs.
- 2. Reregistration Annually.
- 3. Chauffeur's Registration Book—Furnishing Lists to County Clerks.
- 4. Chauffeur's Badge—Display—Loss.
- 5. Change Form or Shape of Chauffeur's Badge Annually.
- 6. Fictitious Badge—Transfer of Badge.
- 7. Unregistered Chauffeur Cannot Drive Motor Vehicles—Nonresidents Registered Elsewhere.
- § 9. Local Ordinances Prohibited—Vehicles for Hire—Parades—Setting Aside Highways for Speed Contests.
- 10. Subdiv. 1. Penalties.
- 2. Civil Actions not Abridged.
- 3. Liability of Owners for Acts of Other—Vehicle Stolen.
- 11. Jurisdiction of Prosecutions.
- 12. "County Jail" Defined.
- 13. Arrest of Offenders—Trial—Bail.
- 14. Certifying Convictions to the Secretary of State.
- 15. Disposition of Fees.
- 16. Duration of Licenses.
- 17. Acts Repealed.
- 18. Title of Act and When It Takes Effect.

An Act to prevent the defrauding of livery stable keepers.

[Act approved June 16, 1905; Acts 1905, No. 269.]

The People of the State of Michigan enact:

§ 1. [*Hiring Vehicle with Intent to Defraud—Penalty*].—Whoever, either directly or indirectly, hires from the owner or keeper of any livery stable, any horse, mare, stallion, filly, gelding, pony, mule, hack,

carriage, buggy, surrey, wagon, sleigh, sled, or whoever hires a bicycle or automobile, with intent to defraud such owner or keeper, shall be fined not exceeding twenty-five dollars, or imprisonment in the county jail or city workhouse for not exceeding ten days, or both.

§ 2. [*Refusal to Pay—Probative Force*].—Proof that such person refused to pay for such horse, mare, stallion, filly, gelding, pony, mule, hack, carriage, buggy, surrey, wagon, sleigh, sled, bicycle or automobile, or that he absconded without paying or offering to pay for the same shall be evidence of the fraudulent intent mentioned in the preceding section.

§ 3. [*Posting Copy of Act on Premises*].—It shall be the duty of the owner or keeper of every livery stable within this state to keep a copy of this act, printed in large plain English type, posted in a prominent place in the barn or stable where his business is carried on, and no conviction shall be had under this act until it be made to appear to the satisfaction of the court that the provisions of this section have been complied with by the person making the complaint.

An Act to prohibit the unauthorized taking or using of automobiles or other motor vehicles by drivers or caretakers thereof, or by any other person or persons, without intent to steal the same, and to provide a penalty therefor.

[Act approved April 14, 1909; Acts 1909, No. 33.]

The People of the State of Michigan enact:

§ 1. [*Using Vehicle Without Permission—Penalty*].—Every person who takes or uses without authority an automobile or other motor vehicle without intent to steal the same, or who shall be a party to such unauthorized taking or using, shall upon conviction thereof be punished by imprisonment in the state prison for not more than two years or by a fine of not more than five hundred dollars: Provided, That in case of first offense the court may in its discretion reduce the punishment to imprisonment in the county jail for a term of not more than three months or a fine of not more than one hundred dollars: Provided further, That the provisions of this act shall be construed to apply to any person or persons employed by the owner of said automobile or other motor vehicle or any one else, who, by the nature of his employment, shall have the charge of, or the authority to drive said automobile or other motor vehicle if said automobile or other motor vehicle is driven or used without the owner's knowledge or consent.

An Act providing for the registration, identification and regulation of motor vehicles operated upon the public highways of this state, and of the operators of such vehicles.

[Act approved June 2, 1909; Acts 1909, No. 318.]

The People of the State of Michigan enact:

§ 1. *Definitions*.—[“*Motor Vehicle*”—“*Chauffeur*”—“*Owner*”—“*Public Highway*,” etc.].—The term “motor vehicle” as used in this act, except where otherwise expressly provided, shall include all vehicles propelled by any power other than muscular power, except motor-cycles operated by policemen or firemen on official business, traction engines, road rollers, fire wagons, fire engines, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks. The term “chauffeur” shall mean any person operating a motor vehicle for hire, or as the employee of the owner thereof. The term “State” as used in this act, except where otherwise expressly provided, shall also include the territories and the Federal districts of the United States. The term “owner” shall also include any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days. The term “public highway” shall include any highway, county road, State road, public street, avenue, alley, park, parkway or public place in any county, city, town or village, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages.

§ 2. Subdiv. 1. *Registration of Motor Vehicles*.—Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, for each motor vehicle owned, except as herein otherwise expressly provided, cause to be filed by mail or otherwise in the office of the Secretary of State a verified application for registration on a blank to be furnished by the Secretary of State for that purpose containing: (1) A brief description of the motor vehicle to be registered including the name of the manufacturer, the style, type and factory number of such vehicle, the character of the motor power and the amount of such motor power stated in figures of horse power; (2) The name, residence and business address of the owner of such motor vehicle and the name of the county in which he resides.

Subdiv. 2. *Registration Book*.—Upon the receipt of an application for registration of a motor vehicle or vehicles as provided in this section and in section four of this act, the Secretary of State shall file such application in his office and register such motor vehicle or vehicles with the name, residence and business address of the owner, manufacturer or dealer, as the case may be, together with the facts

stated in such application, in a book or index to be kept for the purpose, under the distinctive number assigned to such motor vehicle by the Secretary of State, which book or index shall be open to inspection during reasonable business hours.

Subdiv. 3. *Number Plate.*—Upon the filing of such application and the payment of the fee provided in subdivision six of this section, the Secretary of State shall assign to such motor vehicle a distinctive number, and, without expense to the applicant, issue and deliver to the owner a number plate, in duplicate, unless otherwise provided in the form and size provided in subdivision three of section three hereof. In the event of the loss, mutilation or destruction of a number plate, the owner of a registered motor vehicle may obtain from the Secretary of State a duplicate thereof, upon filing in the office of the Secretary of State an affidavit showing the fact and the payment of a fee of one dollar for each duplicate.

Subdiv. 4. *Furnishing Registration Lists to County Clerks.*—The Secretary of State shall, within sixty days after this act takes effect, and thereafter on or before the first day of February of each year, furnish to the clerk of every county in the State a full and accurate list of all motor vehicles so registered, stating the distinctive numbers so assigned to them and the names, residences and business addresses of the owners, manufacturers or dealers as the case may be, and once each month thereafter a similar list of the additional registrations, which additional list shall be entered by each county clerk upon the original list received by him. Such lists shall be filed by such county clerks and be kept as public records, open to inspection during reasonable business hours.

Subdiv. 5. *Reregistration Annually.*—All registrations under this act shall expire on December thirty-first of each year and shall be renewed annually in the same manner and upon the payment of the same fee as provided in this section for original registration, such renewal to take effect on the first day of January of each year.

Subdiv. 6. *Registration Fees.*—A fee of three dollars shall be paid to the Secretary of State upon the registration of a motor vehicle in accordance with the provisions of this act, except as herein otherwise provided: Provided, That a fee of three dollars shall be paid to the Secretary of State upon the registration of a motor bicycle or motorcycle: Provided further, That for all licenses issued after August first, in any registration year a fee of one-half the rate provided in this section shall be paid.

Subdiv. 7. *Sale and Transfer.*—Upon the sale of a motor vehicle registered in accordance with this section, the vendor shall, within ten days after the date of such sale, notify the Secretary of State, stating the name and business address of the purchaser and the num-

ber under which such motor vehicle is registered: Provided, That the vendor may, upon application at the time of such notice, have the registration number transferred to a motor vehicle described in such application and owned by him, and which is not licensed under the law; or if any application be not received by the Secretary of State for a transfer of the license number by the vendor as above provided, the vendee, upon filing application, may have the license transferred to him. A fee of one dollar shall be paid to the Secretary of State for each transfer, all applications for which he shall file in his office and note upon the registration book or index such change, and at least monthly notify every county clerk of the state of such transfers, each of whom shall immediately note the same on the list of registered vehicles received and kept on file as herein provided.

Sec. 3. Subdiv. 1. *Distinctive Number on Motor Vehicles.*—No person shall operate or drive a motor vehicle on the public highways of this State after the first day of January, nineteen hundred ten, unless such vehicle shall have the number plates assigned to it by the Secretary of State conspicuously displayed, one on the front and one on the rear of such vehicle, each securely fastened so as to prevent the same from swinging: Provided, That owners of motor bicycles or motorcycles shall be required to display but one number plate and that upon the rear of such machine: Provided further, That it shall be unlawful to display more than one registration number upon the rear or front of such motor vehicle, or a number which does not entitle the holder thereof to operate such motor vehicle upon the public highways of the State.

Subdiv. 2. *Change of Color of Number Plate Annually.*—Such number plates shall be of a distinctly different color or shade for each year, to be designated and selected by the Secretary of State, and there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon.

Subdiv. 3. *Form of Number Plate.*—Such number plate shall be an enameled plate or placard of metal, four and one-half inches wide and not more than twelve inches in length, in the upper left hand corner of which there shall be a facsimile of the seal of the State, underneath which there shall be the abbreviation "Mich.," and to the right of which seal and abbreviation there shall be the distinctive number assigned to the vehicle set forth in numerals three inches long, each stroke of which shall be at least one-half an inch in width: Provided, That in the case of a motor vehicle registered under section four of this act there shall be on such plate or placard in addition to the foregoing the letter "M," the same to be at the right of the distinctive number, each stroke of such letter to be at least three inches long and one-half an inch in width: Provided further, That the pla-

card or enameled plate required to be displayed upon motor bicycles or motorcycles shall not be more than six inches in length and two and one-half inches in width, with numerals one and one-half inches in height.

§ 4. Subdiv. 1. *Registration by Manufacturers and Dealers.*—Every person, firm, association or corporation manufacturing or dealing in motor vehicles may, instead of registering each motor vehicle so manufactured or dealt in, make a verified application upon a blank to be furnished by the Secretary of State for a general distinctive number for all the motor vehicles owned or controlled by such manufacturer or dealer, such application to contain: (1) A statement setting forth whether the applicant be a dealer or manufacturer; (2) the name, residence and business address of such manufacturer or dealer. On the payment of a registration fee of ten dollars, such application shall be filed and registered in the office of the Secretary of State in the manner provided in section two of this act. There shall thereupon be assigned and issued to such manufacturer or dealer a general distinctive number and duplicate number plates in the manner provided by section two, which shall be in the form of plates as provided in section three, duplicates of which shall be carried or displayed by every motor vehicle of such manufacturer or dealer so registered when the same is driven or operated on the public highways. Such manufacturer or dealer may obtain as many duplicate sets of such number plates as may be desired upon payment to the Secretary of State of two dollars for each duplicate set. Nothing in this subdivision shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for private use or for hire: Provided, That for all licenses issued after August first in any registration year, a fee of one-half the rate provided in this section shall be paid, except for duplicate number plates.

Subdiv. 2. *Reregistration Annually.*—All registrations under this act shall expire on December thirty-first of each year and shall be renewed annually in the same manner and upon the payment of the same fees provided for in this section for original registration, such renewal to take effect on the first day of January of each year.

§ 5. *Exemption of Nonresident Owners.*—The provisions of the foregoing sections shall not apply to a motor vehicle owned by a nonresident of this State: Provided, that the owner thereof shall have complied with the provisions of the law of the state of his residence relative to motor vehicles and the operation thereof and shall conspicuously display his state number, and that the provisions of the foregoing sections of this act are substantially in force in such state: Provided further, That this exemption shall not apply to nonresident corporations doing business in this state: Provided further, That non-

ber under which such motor vehicle is registered: Provided, That the vendor may, upon application at the time of such notice, have the registration number transferred to a motor vehicle described in such application and owned by him, and which is not licensed under the law; or if any application be not received by the Secretary of State for a transfer of the license number by the vendor as above provided, the vendee, upon filing application, may have the license transferred to him. A fee of one dollar shall be paid to the Secretary of State for each transfer, all applications for which he shall file in his office and note upon the registration book or index such change, and at least monthly notify every county clerk of the state of such transfers, each of whom shall immediately note the same on the list of registered vehicles received and kept on file as herein provided.

Sec. 3. Subdiv. 1. *Distinctive Number on Motor Vehicles.*—No person shall operate or drive a motor vehicle on the public highways of this State after the first day of January, nineteen hundred ten, unless such vehicle shall have the number plates assigned to it by the Secretary of State conspicuously displayed, one on the front and one on the rear of such vehicle, each securely fastened so as to prevent the same from swinging: Provided, That owners of motor bicycles or motorcycles shall be required to display but one number plate and that upon the rear of such machine: Provided further, That it shall be unlawful to display more than one registration number upon the rear or front of such motor vehicle, or a number which does not entitle the holder thereof to operate such motor vehicle upon the public highways of the State.

Subdiv. 2. *Change of Color of Number Plate Annually.*—Such number plates shall be of a distinctly different color or shade for each year, to be designated and selected by the Secretary of State, and there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon.

Subdiv. 3. *Form of Number Plate.*—Such number plate shall be an enameled plate or placard of metal, four and one-half inches wide and not more than twelve inches in length, in the upper left hand corner of which there shall be a facsimile of the seal of the State, underneath which there shall be the abbreviation "Mich.," and to the right of which seal and abbreviation there shall be the distinctive number assigned to the vehicle set forth in numerals three inches long, each stroke of which shall be at least one-half an inch in width: Provided, That in the case of a motor vehicle registered under section four of this act there shall be on such plate or placard in addition to the foregoing the letter "M," the same to be at the right of the distinctive number, each stroke of such letter to be at least three inches long and one-half an inch in width: Provided further, That the pla-

card or enameled plate required to be displayed upon motor bicycles or motorcycles shall not be more than six inches in length and two and one-half inches in width, with numerals one and one-half inches in height.

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residents shall not be exempt from the foregoing sections, unless the state of his residence extend similar privileges to motor vehicles registered under this law.

§ 6. Subdiv. 1. *Brakes, Horns, Lamps, et cetera.*—Every motor vehicle, operated and driven upon the public highways of this State, shall be provided with adequate brakes sufficient to control the vehicle at all times, and a suitable and adequate bell, horn or other device for signalling, and shall, during the period from one hour after sunset to one hour before sunrise, display at least two lighted lamps on the front and one on the rear of such vehicle, which shall also display a red light visible from the rear. The white rays of such rear lamp shall shine upon the number plate carried on the rear of such vehicle. The light of the front lamps shall be visible at least two hundred feet in the direction in which the motor vehicle is proceeding: Provided, That motor bicycles or motorcycles shall be required to display but one lighted lamp, such lamp to be placed on the front of the vehicle so that it shall be visible one hundred feet in the direction in which the motor vehicle is proceeding. There shall be displayed on the face of such lamp the registration number in figures not less than one inch in height, and placed thereon in such manner so that when the lamp is lighted the number may be read at a distance of at least fifty feet

Subdiv. 2. *Use of Nonskidding Devices.*—No person shall operate or drive on the public highways of this state a motor vehicle on any of whose wheels is a tire chain or nonskidding contrivance or tire composed in whole or in part of metal, except when such highways are wet and slippery or covered with ice or snow.

Subdiv. 3. *Stopping on Signal—[Horse Becoming Frightened].*—A person operating a motor vehicle shall, at the request or on signal by putting up the hand, from a person riding, leading or driving a horse or horses or other draft animals, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal: Provided, That in case such horse or animal appear badly frightened or the person operating such motor vehicle be requested so to do, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others.

Subdiv. 4. *[Rules of the Road—Meeting—Rule at Crossings].*—Whenever a person operating a motor vehicle shall meet on a highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, and there being no occasion to stop as above provided, the person operating such motor vehicle shall

seasonably turn the same to the right of the center of the traveled portion of the highway, while the person approaching shall likewise turn from the center of the traveled portion of the highway so as to pass the motor vehicle on the opposite side of the center of the highway to which the motor vehicle has been turned. And any person so operating any motor vehicle shall, at the intersection of a public highway, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left.

Subdiv. 5. [*Rules of the Road—Overtaking—Assistance*].—If a vehicle drawn by a horse or horses or other draft animals, or a motor vehicle, be overtaken by any motor vehicle, and the person in charge of such motor vehicle expresses a desire to pass, it shall be the duty of the driver of any such vehicle or motor vehicle so overtaken as aforesaid, to turn to the right of the center of the wrought or traveled portion of the highway, and give the person so making the request an opportunity to pass, but in passing, the person in charge of such motor vehicle and the other male occupants thereof over the age of fifteen years shall give such assistance as they are able to the occupant or occupants of the vehicle they are passing, if assistance is asked, and in thus passing the chauffeur shall use all due care to avoid accidents.

Subdiv. 6. *Accidents*—[*Assistance—Disclosure of Identity*].—In case of accident to person or property upon any public highway, due to the operation thereon of any motor vehicle, the person operating such motor vehicle shall stop and give such reasonable assistance as can be given, and shall, upon request of the person injured or any other person, give such person his name and address, and if not the owner, the name and address of the owner of such motor vehicle, together with the registered number thereof.

§ 7. Subdiv. 1. *Rate of Speed*—[*Regard to Traffic—Speed at Curves, Hills, Crossways, etc.*].—No person shall operate a motor vehicle upon a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person or the safety of any property; and shall not in any event while upon any highway run at a higher rate of speed than twenty-five miles an hour, and within the corporate limits of all cities and villages the rate of speed shall not be greater than ten miles an hour in the business portion of any such city or village, and not greater than fifteen miles an hour in all other portions thereof, subject, however, to the other provisions of this act. Upon approaching an intersecting highway, a bridge, dam, sharp curve or steep descent, and also in traversing such intersecting highway, bridge, dam, curve or descent, a person operat-

residents shall not be exempt from the foregoing sections, unless the state of his residence extend similar privileges to motor vehicles registered under this law.

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Subdiv. 2. *Use of Nonskidding Devices.*—No person shall operate or drive on the public highways of this state a motor vehicle on any of whose wheels is a tire chain or nonskidding contrivance or tire composed in whole or in part of metal, except when such highways are wet and slippery or covered with ice or snow.

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seasonably turn the same to the right of the center of the traveled portion of the highway, while the person approaching shall likewise turn from the center of the traveled portion of the highway so as to pass the motor vehicle on the opposite side of the center of the highway to which the motor vehicle has been turned. And any person so operating any motor vehicle shall, at the intersection of a public highway, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left.

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§ 7. Subdiv. 1. *Rate of Speed*—[*Regard to Traffic—Speed at Curves, Hills, Crossways, etc.*].—No person shall operate a motor vehicle upon a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person or the safety of any property; and shall not in any event while upon any highway run at a higher rate of speed than twenty-five miles an hour, and within the corporate limits of all cities and villages the rate of speed shall not be greater than ten miles an hour in the business portion of any such city or village, and not greater than fifteen miles an hour in all other portions thereof, subject, however, to the other provisions of this act. Upon approaching an intersecting highway, a bridge, dam, sharp curve or steep descent, and also in traversing such intersecting highway, bridge, dam, curve or descent, a person operat-

ing a motor vehicle shall have it under control and operate it at such speed as is reasonable and proper having regard to the traffic then on such highway and the safety of the public.

Subdiv. 2. [*Speed when Passing Others—Warning—Care*].—Upon approaching a person walking in the roadway of a public highway, or a horse or horses, or other draft animals, being ridden, led or driven thereon, a person operating a motor vehicle shall slow down to a speed not exceeding ten miles an hour and give reasonable warning of its approach, and use every reasonable precaution to insure the safety of such person or animal, and in case of a horse or horses or other draft animals, to prevent frightening the same.

Subdiv. 3. *Local Authorities—[Regulations—Signs]*.—Local authorities may, notwithstanding the provisions of this act, make, enforce and maintain such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated in any park or parkway within a city or incorporated village, but in no case to permit a greater speed than is provided in this act, and as a condition thereto, such local authorities must, by signs at each entrance of such park and along said parkway, conspicuously indicate the rate of speed permitted or required, and may exclude motor vehicles from any cemetery or grounds used for the burial of the dead.

§ 8. Subdiv. 1. *Registration of Chauffeurs*.—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the Secretary of State, upon the payment of a registration fee of two dollars, a verified application for registration on a blank to be furnished by the Secretary of State for that purpose containing: (1) The name and residence address of the applicant and that he is competent to operate a motor vehicle and is over eighteen years of age; (2) whether or not the applicant has been previously convicted of a violation of any of the provisions of this or any other motor vehicle law or ordinance, giving the date and place of such conviction and the provision or provisions of the law or ordinance violated: Provided, That for all licenses issued after August first in any registration year a fee of one-half the rate provided in this section shall be paid.

Subdiv. 2. *Reregistration Annually*.—Such registration shall be renewed annually in the same manner and upon the payment of the same fee as provided in this section for original registration, such renewal to take effect on the first day of January of each year.

Subdiv. 3. *Chauffeur's Registration Book—Furnishing Lists to County Clerks*.—Upon receipt of such an application, the Secretary of State shall thereupon file the same in his office, assign the applicant a number and register him in a book or index which shall be kept in the same manner as the book or index for the registration of

motor vehicles. The Secretary of State shall also furnish to the clerk of every county of the state within sixty days after this act takes effect and once each month thereafter, a full and accurate list of chauffeurs so registered, with their addresses and the numbers assigned to each, in the same manner as provided in section two with reference to registered motor vehicles. Such lists shall be filed by such county clerks and be kept as public records, open to inspection during reasonable business hours.

Subdiv. 4. *Chauffeur's Badge—[Display—Loss].*—The Secretary of State shall forthwith upon registering such chauffeur and without other fee, issue and deliver to him a badge of aluminum or other suitable metal, which shall be in such form or shape as the Secretary of State may determine, and upon which shall be stamped the words "Registered Chauffeur Number; State of Michigan," with the number and date of expiration inserted therein. This badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways of this State. In the event of the loss, mutilation or destruction of a chauffeur's badge, such chauffeur may obtain from the Secretary of State a duplicate thereof upon filing in the office of the Secretary of State an affidavit showing the fact and the payment of a fee of one dollar.

Subdiv. 5. *Change Form or Shape of Chauffeur's Badge Annually.*—Such badge shall be of a distinctly different shape or form for each year, to be designated and selected by the Secretary of State.

Subdiv. 6. *Fictitious Badge—[Transfer of Badge].*—No chauffeur having registered as herebefore provided, shall voluntarily permit any other person to wear his badge; nor shall any person while operating a motor vehicle upon the public highways of this State wear a chauffeur's badge belonging to another person, or a fictitious chauffeur's badge.

Subdiv. 7. *Unregistered Chauffeur Cannot Drive Motor Vehicles—[Nonresidents Registered Elsewhere].*—No person shall operate or drive a motor vehicle as a chauffeur upon the public highways of this State after this act takes effect, unless such person shall have complied in all respects with the requirements of this section: Provided, however, That a nonresident chauffeur who has registered under the provisions of the law of the state of his residence which are substantially similar to the provisions of this section, shall be exempt from registration under this section: Provided further, he shall wear the badge assigned to him in the state of his residence in the manner provided in subdivision three of this section: Provided further, That nonresident chauffeurs shall not be exempt from the provisions of the

foregoing sections unless the state of his residence extend similar privileges to chauffeurs registered under this act.

§ 9. *Local Ordinances Prohibited*.—[*Vehicles for Hire—Parades—Setting Aside Highways for Speed Contests*].—Except as herein otherwise provided, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring from any owner or chauffeur to whom this act is applicable, any license or permit for the use of the public highways, or excluding any such owner or chauffeur from the free use of such public highways, or in any other way respecting motor vehicles or their speed upon or use of the public highways. No ordinance, rule or regulation contrary to the provisions of this act now in force or hereafter enacted shall have any effect: Provided, however, That the powers given to local authorities to regulate vehicles offered to the public for hire, and processions, assemblages or parades in the streets or public places, and all ordinances, rules and regulations which may have been or which may be enacted in pursuance of such powers shall remain in full force and effect: Provided further, That local authorities may set aside for a given time a specified public highway for speed contests or races, to be conducted under proper restrictions for the safety of the public, and that said authorities may exclude motor vehicles from any cemetery or grounds used for the burial of the dead.

§ 10 Subdiv. 1. *Penalties*.—Any person violating any of the provisions of this act and who shall be convicted thereof, or who shall plead guilty to any complaint for the violation thereof, shall be punished by a fine not exceeding twenty-five dollars and costs of prosecution; or if such fine be not paid then by imprisonment in the county jail for not exceeding ten days; for the second offense he shall be punished by a fine not exceeding fifty dollars and costs of prosecution; or if such fine be not paid then by imprisonment in the county jail for not exceeding thirty days; and for a third or any subsequent offense, he shall be punished by a fine not exceeding one hundred dollars and costs of prosecution or by imprisonment in the county jail or the Detroit House of Correction for a period not exceeding thirty days, or by both such fine and imprisonment.

Subdiv. 2. *Civil Actions Not Abridged*.—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from the negligence of the owner or operator or his agent, employee or servant, of any such motor vehicle, or resulting from the negligent use of the highway by them or any of them.

Subdiv. 3. *Liability of Owners*.—[*For Acts of Others—Vehicle Stolen*].—The owner of a motor vehicle shall be liable for any injury occasioned by the negligent operation by any person of such motor ve-

hicle, whether such negligence consists in violations of the provision of a statute of this state or in the failure to observe such ordinary care in such operation as the rules of the common law require; but such owner shall not be so liable in case such motor vehicle shall have been stolen.

§ 11. [*Jurisdiction of Prosecutions*].—All police justices of any city, or justices of the peace of the county where any such violations shall occur, shall have jurisdiction to hear, try and pass sentence for any and all violations of any of the provisions of this act.

§ 12. [*"County Jail" Defined*].—The term "county jail" referred to in section ten of this act shall be construed to mean the county jail of any county where the violation of any of the provisions of this act shall occur, and the Detroit House of Correction shall be construed to mean the institution of that name located in the city of Detroit, this state.

§ 13. [*Arrest of Offenders—Trial—Bail*].—Any police officer of any city, any marshal, deputy marshal, or watchman of any incorporated village, or any sheriff or deputy sheriff of any county or any constable of any township, shall have full power and authority within the limits of their jurisdiction or in any adjoining county to arrest any person known personally to any such officer to have violated any of the provisions of this act, and to immediately bring such offender before any magistrate having jurisdiction, as provided in section eleven of this act, and any such person so arrested shall have the right of an immediate trial and all other rights given to any person arrested for having committed a misdemeanor; and if such hearing cannot then be had, be released from custody on giving his personal undertaking to appear in answer to such violation at such time and place as shall then be indicated, secured by the deposit of a sum equal to the maximum fine for the offense with which he is charged, or in lieu thereof by leaving the motor vehicle, being operated by such person, with such officer; or in case such officer be not accessible, be forthwith released from custody on giving his name and address to the officer making such arrest, and depositing with such officer a sum equal to the maximum fine for the offense for which such arrest is made, or in lieu thereof by leaving the motor vehicle, being operated by such person, with such officer: Provided, That in such case the officer making such arrest shall give a receipt in writing for such sum or vehicle and notify such person to appear before the most accessible magistrate, naming him, on that or the following day, specifying the place and hour. In case security shall be deposited as in this section provided, it shall be returned to the person depositing forthwith on such person being admitted to bail.

§ 14. [*Certifying Convictions to the Secretary of State*].—Upon the

conviction of any person for a violation of any of the provisions of this act, the magistrate or other judicial officer before whom the proceedings are held, shall immediately certify the facts of the case, including the name and address of the offender, the character of the punishment and the amount of any fine imposed and paid, to the Secretary of State, who shall enter the same either in the book or index of registered motor vehicles or in the book or index of registered chauffeurs as the case may be, opposite the name of the person so convicted, and in the case of any other person, in a book or index of offenders to be kept for such purpose, in alphabetical order. The Secretary of State shall send notices of all convictions for violations of section seven of this act, with the names and addresses of the person convicted and the judgments of the court on such convictions, to the clerk of every county in the State, who shall enter the same on the lists of registered motor vehicles or registered chauffeurs as the case may be, opposite the name of the person so convicted, or on a list of other offenders which he shall maintain in his office as a public record in the same manner as the lists of registered motor vehicles and registered chauffeurs, and on due application furnish copies of such lists to the magistrates or other judicial officers of his county before whom violations of the provisions of this act are triable. If any such convictions shall be reversed upon appeal therefrom, the person whose conviction has been so reversed may serve on the Secretary of State a certified copy of the order of reversal, whereupon the Secretary of State shall enter the same in the proper book or index in connection with the record of such conviction, and shall also notify each county clerk of the same.

§ 15. [*Disposition of Fees*].—All fees paid to the Secretary of State as provided in this act shall be turned over to the State Treasurer and applied to the general fund.

§ 16. [*Duration of Licenses*].—All licenses issued during the year nineteen hundred nine, under the provisions of act number one hundred ninety-six of the public acts of nineteen hundred five, as amended by act number three hundred four of the public acts of nineteen hundred seven, shall expire on January first, nineteen hundred ten.

§ 17. *Acts Repealed*.—Act number one hundred ninety-six of the public acts of nineteen hundred five, as amended by act number three hundred four of the public acts of nineteen hundred seven, and all acts or parts of acts inconsistent herewith or contrary hereto, are hereby expressly repealed.

§ 18. *Title of Act and when it Takes Effect*.—This act shall be known as the "Michigan Motor Vehicle Law," and shall take effect the first day of January, nineteen hundred ten: Provided, That appli-

cations for registration may be made and registration certificates and badges issued at any time within sixty days prior to such date.

MINNESOTA.

ACT OF APRIL 19, 1909.

- § 1. Definitions—"Motor Vehicle"—"Chauffeur"—"Owner"—"Public Highway," etc., etc.
2. Registration of Vehicles—Application.
3. Transfer of Registered Vehicle—Notice to Secretary of State.
4. Record of Registrations.
5. Registration Numbers—Tags—Loss of Tags.
6. Renewal of Registration—Fee.
7. Registration Fees.
8. Necessity for Registration—Display of Number—Other Numbers.
9. Certificates—Number Plates—Form.
10. Certificate—Form—Display of Tags.
11. Registration by Manufacturers and Dealers—Tags—Display.
12. Equipment—Brakes—Signalling Device—Lights—Illumination of Number—Muffler—Cutting Out.
13. Stopping on Signal—Care—Stopping Motor—Obstruction of Travel.
14. Rules of the Road—Rule at Crossways.
15. Nonresidents Touring in State—Vehicle Registered Elsewhere.
16. Speed—General Considerations—Rate at Curves, Hills, Crossways, etc.
17. Chauffeurs—Registration—Application—Fee.
18. Chauffeurs—Numbers—Record of Registrations.
19. Chauffeur's Badge—Form—Display.
20. Transfer of Badge—Fictitious Badge.
21. Necessity for Registration by Chauffeurs—Nonresidents.
22. Tampering with Vehicle—Using without Permission—Hurling Missiles.
23. Disposition of Moneys Received—Expense of Enforcing Act.
24. Civil Actions Not Abridged—Number Proof of Ownership of Vehicle—Stopping in Case of Accident—Disclosing Identity.
25. Laws Repealed Hereby.
26. Penalty.
27. Time of Taking Effect.

ACT OF APRIL 20, 1909.

§ 1. Taking Vehicle without Permission—Penalty.

An Act to license and define the road regulations of motor and other vehicles and appropriating money therefor.

[Act approved April 19, 1909; Laws 1909, c. 259.]

Be it enacted by the Legislature of the State of Minnesota:

§ 1. [*Definitions—"Motor Vehicle"—"Chauffeur"—"Owner"—"Public Highway," etc., etc.*].—The term "motor vehicle" as used in this act, except where otherwise expressly provided, shall include all vehicles propelled by any other than muscular power, except traction engines, road rollers, fire wagons and engines, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks.

The term "local authorities" shall include all officials of counties, cities, towns or villages.

The term "chauffeur" shall mean any person operating a motor vehicle for hire, or as the employee of the owner thereof, and will include all persons who receive compensation for services in connection with motor cars, whether directly or indirectly.

The term "State" as used in this act, except where otherwise provided, shall also include the territories and the federal districts of the United States.

The term "owner" shall also include any person, firm, association or corporation owning or renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.

The term "public highway" shall include any highway, town road, county road, state road, public street, avenue, alley, park, parkway, or public place in any county, city, town or village, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages.

§ 2. [*Registration of Vehicles—Application*].—Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state, for each motor vehicle owned, except as herein otherwise provided, shall cause to be filed, by mail or otherwise, in the office of the Secretary of State, a verified application for registration on a blank to be furnished by the Secretary of State for that purpose, containing:

(1) A brief description of the motor vehicle to be registered including the name of the manufacturer, the factory number and model, if such number or model there be.

(2) The name, residence and business address of the owner of

such motor vehicle and the name of the county in which he resides; provided, that if such motor vehicle is used solely for commercial purposes the applicant shall so certify and also state the business in connection with which such vehicle is so used or to be used.

§ 3. [*Transfer of Registered Vehicle—Notice to Secretary of State*].—Upon the sale of a motor vehicle registered in accordance with this section, the vendee shall, within ten days after the date of such sale, notify the Secretary of State of the same upon a blank furnished him for that purpose, stating the name and business address of the previous owner, if known, the number under which such vehicle is registered and the name, residence and business address of such vendee. Upon filing such statement such vendee shall pay to the Secretary of State a fee of one dollar; and upon receipt of such statement and fee the Secretary of State shall file such statement in his office and note in the registration book or index such change in ownership.

§ 4. [*Record of Registrations*].—Upon receipt of an application for registration of a motor vehicle or vehicles as provided in section two and in section eleven of this act, the Secretary of State shall file such application in his office and register such motor vehicle, or vehicles with the name and residence and business address of the owner, manufacturer or dealer as the case may be, together with the facts stated in such application in a book or index to be kept for that purpose, under the distinctive number assigned to such motor vehicle by the Secretary of State, which book or index shall be open to inspection during reasonable business hours.

§ 5. [*Registration Numbers—Tags—Loss of Tags*].—Upon the filing of such application and the payment of the fee provided in section seven, the Secretary of State shall assign to such motor vehicle a distinctive number, and without other fee, issue and deliver to the owner a set of two (2) tags of registration, upon each of which shall be displayed the distinctive number assigned in the form and size provided in section ten, which shall be evidence of payment of license fee of such registration. In the event of the loss, mutilation or destruction of a certificate of registration, the owner of a registered motor vehicle may obtain from the Secretary of State an affidavit showing the fact and the payment of a fee of one dollar for each set of duplicates.

§ 6. [*Renewal of Registration—Fee*].—Such registration shall be renewed annually, and upon the payment of the same fee as provided in this act for original registration, such renewal to take effect on the first day of January of each year.

§ 7. [*Registration Fees*].—A fee of one and 50-100 (\$1.50) dollars shall be paid to the Secretary of State upon the registration or re-

registration of a motor vehicle in accordance with the provisions of this act.

§ 8. [*Necessity for Registration—Display of Number—Other Numbers*].—No person shall operate or drive a motor vehicle on the public highways of this state after thirty days after this act takes effect, unless such vehicle shall have been registered in accordance with this act and shall have the tag of registration assigned to it by the Secretary of State conspicuously displayed on the rear of such vehicle, securely fastened. No person shall display on such vehicle at the same time any number assigned to it under any other motor vehicle law or ordinance.

§ 9. [*Certificates—Number Plates—Form*].—Such certificate shall be of a distinctly different color or shade each year, there being at all times a marked contrast between the color of the number plate and that of the numerals or letters thereon.

§ 10. [*Certificate—Form—Display of Tags*].—Such certificate of registration shall be substantially of the following size and form, namely: A plate or placard of metal or enamel with metal letters eight and one-half inches in length and five inches in width for one or two numerals; ten inches in length and five inches in width for three numerals; twelve inches in length and five inches in width for four or more numerals; on the left end of this plate with letters running vertically from the top, there shall be the four letters "MINN.," each letter of which shall be approximately one inch in length, and on the right end, arranged in the same manner and of the same size, there shall be the four numerals of the year in which the license is issued; and on the body of such plate there shall be the distinctive numbers assigned to the vehicle in numerals four inches long, each stroke of which shall be at least one-half inch in width; provided, that motorcycles shall be assigned tags three inches in width and of a height to permit numerals to be placed vertically; across the top of this tag with letters running horizontally there shall be the four letters, "MINN.," and across the bottom, arranged in the same manner, there shall be the four numerals of the year in which the license is issued; except that the letters shall be in proportionate size to the small plate; provided, further, that in the case of a motor vehicle registered under section eleven of this act, there shall be, in addition to the foregoing, the letter "M" preceding the numeral or numerals for the manufacturer of vehicles and the letter "D" preceding the numeral or numerals for the dealer in vehicles. The letter in this instance to be approximately three and one-half inches in length and four inches in width, and to be added to the length of the registration certificates heretofore specified. Provided, further, that the owner, in lieu of such registration tag, may use a tail lamp with the registration number, the

word "Minn." and the numerals of the year, displayed in the lens, the registration numerals to be of the size displayed above.

§ 11. [*Registration by Manufacturers and Dealers—Tags—Display*].—Every person, firm, association or corporation manufacturing or dealing in motor vehicles may, instead of registering each motor vehicle so manufactured or dealt in, make a verified application upon a blank to be furnished by the Secretary of State for a general distinctive number for all motor vehicles owned or controlled by such manufacturer or dealer, such application to contain: (1) A brief description of each style or type or vehicle manufactured or dealt in by such manufacturer or dealer and, (2) The name, residence and business address of such manufacturer or dealer. On the payment of a registration fee of ten dollars such application shall be filed and registered in the office of the Secretary of State in the manner provided in section 2 of this act. There shall thereupon be assigned and issued to such manufacturer or dealer a general distinctive number and duplicate tags of registration in the manner provided by section 2, which shall be in the form of plates as provided in section ten, duplicates of which shall be carried or displayed by every motor vehicle of such manufacturer or dealer so registered when the same is driven or operated on the public highways. Such manufacturer or dealer may obtain as many duplicate sets of such tags of registration as may be desired upon payment to the Secretary of State of one dollar for each such duplicate.

§ 12. [*Equipment—Brakes—Signaling Device—Lights—Illumination of Number—Muffler—Cutting Out*].—Every motor vehicle operated upon the public highways of this state, shall be provided with adequate brakes sufficient to control the vehicles at all times, and a suitable adequate bell, horn or other device for signaling, and shall, during the period from one hour after sunset to one hour before sunrise, display at least two lighted lamps visible from the front and one on the rear of such vehicle, which shall also display a red light visible from the rear. The white rays of such lamp shall shine upon the number plate carried on the rear of such vehicle. The light of the front lamps shall be visible at least two hundred feet in the direction in which the motor vehicle is proceeding. And every such motor vehicle using gasoline as motive power shall use a "muffler," so called, and the same shall not be cut out or disconnected within the limits of any city or village within the state.

§ 13. [*Stopping on Signal—Care—Stopping Motor—Obstruction of Travel*].—A person operating a motor vehicle at request or on signal by putting up the hand from a person riding, leading or driving a restive horse or horses or other draft animals, or on any evidence of fright of any animal so ridden, led or driven sufficient to attract

the attention of the operator of a motor vehicle, shall bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided, that in case such horse or animal appears badly frightened, or the person operating such motor vehicle is requested to do so, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others; provided, however, that no person shall unreasonably obstruct or impede the right of travel upon the public highways of a driver of a motor vehicle or of a horse, and any one so doing shall be held amenable under this act.

§ 14. [*Rules of the Road—Rule at Crossways*].—Whenever a person walking in the traveled portion of a public highway, or a person riding, driving or leading a horse or other animal therein, or driving or operating a vehicle therein, shall meet another person thus walking or thus riding, driving or leading a horse or other animal, or thus driving or operating a vehicle, if such persons are moving in opposite directions, each shall slacken his pace, if necessary, and seasonably turn to the right so as to give half of the traveled road, if practicable, and a fair and equal opportunity to pass, to the other; or, if they are moving in the same direction, the person overtaking shall pass on the left side of the person overtaken, and the person overtaken shall, as soon as practicable, turn to the right so as to give half of the traveled road to the other. Any such person shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left. In cities or villages or any place where traffic is large, or on streets usually congested with traffic of horse-drawn vehicles or street cars, slow moving vehicles must keep near the right curb, allowing those moving more rapidly to keep nearer the center of the street. All vehicles, however, must keep to the right of the center of the street.

§ 15. [*Nonresidents Touring in State—Vehicle Registered Elsewhere*].—The provisions of the foregoing sections in regard to registration shall not apply to a motor vehicle owned by a nonresident of this state, who is temporarily within the state while passing into or through this state from an adjoining state, provided, that such nonresident shall have displayed in a conspicuous way on the motor vehicle he is operating, a number and tag which shall make it and the place from which it comes easily identified.

§ 16. [*Speed—General Considerations—Rate at Curves, Hills, Crossways, etc.*].—No person shall operate a motor vehicle on the public

highways of this state at a rate of speed greater than is reasonable and proper, having regard to the width, condition and use of the highway at the time and the general and usual rules of the road, or so as to endanger property or the life or limb of any person. Provided, that upon approaching a dam, bridge, sharp curve or steep descent, and also in traversing such dam, bridge, sharp curve or descent, and upon approaching a crossing or intersecting highway or in passing from a side street into a main thoroughfare where persons or vehicles are not plainly discernable, a person operating a motor vehicle shall have such vehicle under perfect control and the rate of speed shall not exceed one mile in eight minutes, nor on any street or highway shall the rate of speed exceed twenty-five miles per hour.

§ 17. [*Chauffeurs — Registration — Application — Fee*].—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the Secretary of State, upon the payment of a registration fee of two dollars, for the first certificate and one dollar for renewal thereafter, annually, a verified application for registration on a blank to be furnished by the Secretary of State for that purpose, containing:

(1) The name and address of the applicant and that he is competent to operate a motor vehicle.

(2) The trade name and motor power of the motor vehicle or vehicles he is competent to operate.

(3) Whether or not the applicant has been convicted of violation of any of the provisions of this or any other motor vehicle law or ordinance, giving the date and place of such conviction and the provision or provisions of the law or ordinance violated.

§ 18. [*Chauffeurs—Numbers—Record of Registrations*].—Upon the receipt of such an application the Secretary of State shall thereupon file the same in his office, assign the applicant a number and register him in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles.

§ 19. [*Chauffeur's Badge—Form—Display*].—The Secretary of State shall forthwith, upon registering such chauffeur, and without other fee, issue and deliver to him a badge of aluminum or other suitable metal, which shall be oval in form with its greater diameter not more than two inches, upon which shall be stamped the words "Registered Chauffeur Number..... State of Minnesota," with the number inserted therein. The badge shall thereafter be worn by such chauffeur, pinned upon his clothing in a conspicuous place, and at all times while he is operating a motor vehicle upon the public highways of this state.

§ 20. [*Transfer of Badge—Fictitious Badge*].—No chauffeur, having registered as hereinbefore provided, shall voluntarily permit any other

person to wear his badge; nor shall any person while operating a motor vehicle upon the public highways of this state wear a chauffeur's badge belonging to another person, or a fictitious chauffeur's badge.

§ 21. [*Necessity for Registration by Chauffeurs—Nonresidents*].—No person shall operate or drive a motor vehicle as chauffeur, upon the public highways of this state thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this act, provided, however, that a nonresident chauffeur, who has registered under the provisions of the law of the state of his residence which are substantially similar to the provisions of this section, shall be exempt from registration under this section; and, provided, further, he shall wear the badge assigned him in the state of his residence in the manner provided in section 19 of this act.

§ 22. [*Tampering with Vehicle—Using without Permission—Hurling Missiles*].—No person shall tamper with or drive or operate, or use a motor vehicle without the permission of the owner, and no person shall, without authority of the person in charge, climb upon or in any automobile, whether while the same is in motion or at rest, or hurl stones or any other missiles at the same, or occupants thereof, or shall, while such motor vehicle is at rest and unattended, sound the horn or other signaling device, or attempt to manipulate any of the levers, starting crank, brakes or machinery thereof, or set such vehicle in motion or otherwise damage or interfere with the same.

§ 23. [*Disposition of Moneys Received—Expense of Enforcing Act*].—At the end of each month, the secretary of state shall pay into the state treasury to the account of the general fund of the state, all moneys received by him under this act, and file with the state auditor a verified statement of the amount and sources thereof. For the purchase of tags, books of registration and the salary of an additional clerk in the office of the secretary of state, and not to exceed \$1,200 per annum, and the other necessary expenses provided in this act, the sum of \$10,000, or so much thereof as may be necessary, is annually appropriated out of the general fund of the state. On or before the 10th of each month, the secretary of state shall certify to the state auditor the items and amounts of all expenses necessarily incurred by him in the carrying out of this act, and such items and amounts being duly audited shall be paid by the state.

§ 24. [*Civil Actions Not Abridged—Number Proof of Ownership of Vehicle—Stopping in Case of Accident—Disclosing Identity*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil suit for damages by reason of injuries to persons or property resulting from the negligent use of the highways by a motor vehicle or its owner or his employee or agent, and in all actions and proceedings against the registered owner of a motor

vehicle for negligence in the operation of such vehicle or for any violation of this act, the fact that such motor vehicle had upon it the registration number assigned to such owner under this act, shall be *prima facie* evidence that such motor vehicle belonged to such registered owner. In case of accident to any person or property on the public highway due to the operation thereon of a motor vehicle, the person operating such motor vehicle shall stop, and, upon request of any person injured, or any person present, give such person his name and address.

§ 25. [*Laws Repealed Hereby*].—Sections 1273-1277, inclusive, of the Revised Laws of 1905 and all other acts or parts of acts inconsistent herewith are hereby expressly repealed.

§ 26. [*Penalty*].—Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

§ 27. [*Time of Taking Effect*].—This act shall take effect and be in force from and after May 15, 1909.

An Act making it a misdemeanor to take and remove automobiles and motor vehicles from any warehouse, garage or building, without the knowledge and consent of the owners.

[Act approved April 20, 1909; Laws 1909, c. 265.]

Be it enacted by the Legislature of the State of Minnesota:

§ 1. [*Taking Vehicle without Permission—Penalty*].—Any person who enters any warehouse, garage or building of any kind and takes and removes therefrom, for his own use or that of others, any automobile or motor vehicle, without the knowledge and consent, expressed or implied, of the owner thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished accordingly. The fact that such automobile or motor vehicle was voluntarily returned to its original place by the party taking the same before or after the owner discovers such removal, or the fact that the party taking the same was then and there in the employ of the owner of such property shall not be deemed a defense in the prosecution of such offender.

MISSOURI.

ACT OF MARCH 19, 1907.

- § 1. Definitions—"Motor Vehicle"—"Auto Driver"—"Highway," etc.
2. Registration of Vehicles—Certificate—Seal—Fee.
3. Sale of Registered Vehicle—Notice by Seller.

- § 4. Display of Number—Mode.
5. Lights.
6. Registration by Manufacturers and Dealers.
7. Nonresidents—Vehicles Registered Elsewhere.
8. Necessity for Registration—Fictitious or Other Number.
9. Drivers — Registration — Certificate — Fee — Age — Removal from County.
10. Driver's Badge—Form—Display.
11. Nonresident Drivers—Registration Elsewhere.
12. Necessity for Registration—Transfer of Badge—Fictitious Badge.
13. Taking Vehicle without Permission.
14. Equipment—Brakes—Signaling Device.
15. Rules of the Road—Rule at Crossways.
16. Duties Respecting Drivers of Horses—Stopping in Case of Accident—Disclosing Identity.
17. Stopping on Signal—Stopping Motor—Assistance.
18. Speed—Regard to Traffic—Rates.
19. Local Regulations—License Taxes.
20. Civil Actions Not Abridged.
21. Penalties—Fine—Imprisonment—Forfeiture of Rights Hereunder.
22. Care—Degree—Failure to Exercise—Damages for Injury or Death.
23. Acts Repealed.

An Act to repeal an act entitled "An act regulating the operation and speed of automobiles on the public streets, roads and highways of this state; fixing the amount of license and prescribing a penalty for violating same," approved March 23, 1903, and to substitute in lieu thereof an act to provide for the (regulation) [registration] of motor vehicles and auto drivers; to provide regulations for the operation, use and speed of motor vehicles on the public highways; and prescribing penalties and civil liabilities for the violation thereof.

[Act approved March 19, 1907; Laws 1907, pp. 73-79].

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. [Definitions—"Motor Vehicle"—"Auto Driver"—"Highway," etc.].—The term and words "motor vehicle," as used in this act, shall be construed to mean all vehicles propelled by power other than muscular power, except traction engines and such vehicles as run only upon rails or tracks; the terms and words "business portion of any

city, town or village," as used in this act, shall be construed to mean the territory of a city or incorporated town or village contiguous to a public road or highway, which is at that point principally built up with structure[s] devoted to business; the term and word[s] "auto driver" shall be construed to mean any person operating a motor vehicle as mechanic, paid employe, or for hire; the terms and words "public highway," or "highways," as used in this act, shall be construed to mean any public road, thoroughfare or highway, county road, township road, toll road, or any public street, avenue, alley, parkway or other places generally used for public travel, driveway in any city, town, village, county or township or other municipal corporation or political subdivision in this state.

§ 2. [*Registration of Vehicles—Certificate—Seal—Fee*].—Every person in this state now owning or hereafter acquiring a motor vehicle shall, for every motor vehicle owned by him, file in the office of the secretary of state a statement containing his name and address, a brief description of the motor vehicle to be registered, the name of the maker, factory number, style of vehicle and [motive] power, on a blank to be prepared and furnished by said secretary of state for that purpose. Upon the filing of said statement, the secretary of state shall register such motor vehicle in a book, to be kept for that purpose, and assign it a distinctive number; and upon payment of the fee, as hereinafter provided, shall forthwith issue and deliver to the owner of such motor vehicle a certificate of registration and a seal of aluminum or other suitable metal, which said seal shall be circular in form, approximately two inches in diameter, and shall have stamped thereon the word "Registered motor vehicle No. ——— Missouri motor vehicle law," with the registration number inserted therein, which seal shall thereafter at all times be attached to the motor vehicle to which said number has been assigned. The certificate of registration shall contain the same words and number as the seal, and shall further contain the name of the owner of the vehicle so registered, as aforesaid, his address, the name of the maker of said vehicle, factory number, style and motive power, the date of registration, and the page of the book in the office of the secretary of state in which the same is registered. For such registration and issuing of such certificate and seal, a fee of five (\$5.00) dollars shall be paid to the secretary of state. The proceeds of license required by this act shall be for the benefit of the "good road fund."

§ 3. [*Sale of Registered Vehicle—Notice by Seller*].—Upon the sale of any motor vehicle registered in accordance with this act, except by a manufacturer or dealer, its registration shall expire and the seller shall, within ten (10) days of said sale, return to the secretary of state the certificate of registration and the seal, together with notice

of the sale and of the name, place of residence and address of the purchaser.

§ 4. [*Display of Number—Mode*].—The owner of each motor vehicle shall have a number, corresponding with the number of the registration seal issued by the secretary of state, as hereinbefore provided, conspicuously displayed upon and permanently fixed on the back of every such motor vehicle owned by him; also display by an illuminated device the registration number on front of every such motor vehicle so that said registration number of said motor vehicle can be distinguished at night, whenever the same shall be operated or run upon the public highways in this state; the figures to be Arabic numerals not less than three inches in height, and each stroke to be of a width not less than three-eighths ($\frac{3}{8}$) of an inch, and also as part of such number the letters "Mo."; such figures and letters shall be white on black ground, and the letters shall not be less than one and one-half ($1\frac{1}{2}$) inches in height; and provided, that said owner shall not be required to place any other mark of identity upon his motor vehicle.

§ 5. [*Lights*].—Every motor vehicle, when operated upon any of the public highways, shall carry, during the period from sunset to sunrise, at least two lighted lamps showing white lights visible at least two hundred (200) feet in the direction toward which the motor vehicle is proceeding, and shall also exhibit at least one red light, visible in the reverse direction.

§ 6. [*Registration by Manufacturers and Dealers*].—Each manufacturer of and dealer in motor vehicles doing business in this state, shall register one vehicle of each class manufactured or dealt in by him, and if a number, corresponding to the number of the registration seal issued to such manufacturer or dealer, is displayed upon every vehicle of the class for which it was issued, as provided in this section, while such vehicle is being operated by such manufacturer or dealer or his agent or representative on the public highway, it shall be deemed a sufficient compliance with sections two and four of this act, until such vehicle shall be sold or let for hire: Provided, that electrically propelled motor vehicles shall constitute a class, steam propelled vehicles shall constitute a class, and those propelled by gasoline explosive type engines or motors shall constitute a class; and provided further, that nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for his private use or for hire.

§ 7. [*Nonresidents—Vehicles Registered Elsewhere*].—That provisions of sections two, three and four of this act shall not apply to any motor vehicle owned by nonresidents of this state, unless such motor vehicle remain in the state twenty days or more: Provided, the owner thereof has complied with any law requiring the registra-

tion of motor vehicles or the names of the owners thereof in force in any city, state, territory or federal district of his residence; and provided a registration number and the initial or abbreviation of the name of such city, state, territory or federal district shall be displayed on such vehicle substantially as provided in section four of this act.

§ 8. [*Necessity for Registration—Fictitious or Other Number*].—No motor vehicle shall be used, driven or operated upon the public highway of this state after thirty (30) days from the time this act takes effect, unless the owner shall have complied in all respects with sections two, three, four, five, six and seven of this act; or which shall display thereon a fictitious seal or number belonging to any other vehicle.

§ 9. [*Drivers—Registration—Certificate—Fee—Age—Removal from County*].—Every person hereafter desiring to operate a motor vehicle as an auto driver shall file in the office of the secretary of state a sworn statement containing his name, age and address, and the trade name, style and motive power of the motor vehicles he is competent to operate, on a blank to be prepared and furnished by the secretary of state for that purpose. Upon the filing of such statement, the secretary of state shall register the name of the said person in a book to be kept for that purpose, and assign to him a distinctive number; and upon payment of the fee, as hereinafter provided, shall forthwith issue and deliver to him a certificate of registration, which shall contain the name and address of the person so registered and the words "Registered auto driver No. ——— Missouri motor vehicle law," and the registration number and the name and motive power of the motor vehicles which said person states he is competent to operate, the date of registration, and the page of the book in which said person is registered; and for such registration and issuing of such certificate a fee of two (\$200) dollars shall be paid to the secretary of state: Provided, that no certificate of registration shall be issued to any person under the age of eighteen (18) years; and provided, further, that if any person registered in accordance with this act shall remove from the county in which he resided when his statement was filed, his certificate of registration shall thereupon expire, and he shall file another statement giving the address to which he has removed.

§ 10. [*Driver's Badge—Form—Display*].—The secretary of state shall forthwith upon registration as provided in section nine (9), and without other fee, issue and deliver to the person registered a badge of aluminum or other suitable metal, which shall be oval in form, and the greater diameter of which shall not be more than two (2) inches, which badge shall have thereon the words "Registered auto driver number ———," with the registration number inserted therein,

and which said badge shall be thereafter worn by such auto driver and pinned upon his clothing in a conspicuous place, at all times while he is operating a motor vehicle upon the public highways.

§ 11. [*Nonresident Drivers—Registration Elsewhere*].—The provisions of sections nine and ten of this act shall not apply to any auto driver who is a nonresident of this state, and who shall be operating a motor vehicle owned by a nonresident of this state, unless he shall operate in this state 20 days or more: Provided, such auto driver shall have complied with any law requiring the registration or licensing of auto driver [s] in the city, state, territory or federal district of his residence, provided the motor vehicle so operated or driven by him shall have been registered by the owner thereof, and shall bear the registration number showing initial or abbreviation of the name of such city, state, territory or federal district in which the said motor vehicle has been registered, substantially as in section two of this act provided.

§ 12. [*Necessity for Registration—Transfer of Badge—Fictitious Badge*].—No person who shall not have complied with the provisions of sections nine, ten and eleven of this act, shall operate a motor vehicle, as auto driver, on the public highways of this state after thirty (30) days from the time this act takes effect; and no person shall voluntarily permit any other person to wear his badge; nor shall any person wear a fictitious badge or badge belonging to any other person.

§ 13. [*Taking Vehicle Without Permission*].—No person, whether employed as an auto driver or otherwise, shall take, use, operate or run any motor vehicle without the consent, permission or knowledge of the owner thereof.

§ 14. [*Equipment—Brakes—Signaling Device*].—Every motor vehicle, while in use on a public highway, shall be provided with good and suitable brakes, and also with a suitable horn, bell or other signal device.

§ 15. [*Rules of the Road—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, the person so operating such motor vehicle shall seasonably turn the same to the right of the center of such highway, so as to pass without interference. Any such person so operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right, so as to allow free passage on the left. Any such person so operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the

center of such highways when turning to the right, and pass to the right of such intersection when turning to the left.

§ 16. [*Duties Respecting Drivers of Horses—Stopping in Case of Accident—Disclosing Identity*].—Every person, corporation, company or copartnership engaged in operating any motor vehicle upon any of the public streets, roads or highways of this state shall keep a vigilant watch for all vehicles, carriages or wagons drawn by animal or animals, and especially vehicles, carriages or wagons driven by women or children, and shall, when approaching any such vehicle, carriage or wagon so drawn by animal or animals, stop such motor vehicle for such time as to enable such person in charge of any such vehicle, carriage or wagon to pass, or if going in the same direction shall, before attempting to pass, give said driver or person in charge of any vehicle, carriage or wagon, drawn by animal or animals, sufficient notice of his or their intention to pass, by (the) sounding a bell, whistle or horn, and if necessary to prevent the frightening of such animal or animals, bring said motor vehicle to a stop, in order to give such driver or person an opportunity to alight from such vehicle, carriage or wagon, and in case of an injury to a person or damage to property, the operator of such motor vehicle shall stop, and upon request of a person injured or property damaged, or any person present, shall give his name and address, and if he is not the owner of such motor vehicle, he shall give the name and address of such owner.

§ 17. [*Stopping on Signal—Stopping Motor—Assistance*].—Every person operating a motor vehicle on the public highway shall, at request or upon signal by holding up the hand or otherwise, from a person riding or driving a horse or horses, or leading a horse or horses or other draft animals on the highway, shall cause the motor vehicle to stop and remain stationary, and shall, if requested, stop the engine of such motor vehicle so long as may be necessary to allow the said horse or horses or other draft animal to pass; and it shall be the duty of any male auto driver or driver of any motor vehicle, and other male occupants thereof, over the age of 15 years, while passing any horse or horses or other draft animals which appear badly frightened, or upon the request of the person in charge of such horse or horses or other draft animal, to give such personal assistance as would be reasonable to insure the safety of all persons concerned and to prevent accidents. The provisions of this section shall apply to motor vehicles going either in the same or in the opposite direction: Provided, however, that no person shall give a signal of danger or distress, or call for assistance upon a person operating a motor vehicle without a reasonable cause for so doing.

§ 18. [*Speed—Regard to Traffic—Rates*].—No person shall operate

the attention of the operator of a motor vehicle, shall bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided, that in case such horse or animal appears badly frightened, or the person operating such motor vehicle is requested to do so, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others; provided, however, that no person shall unreasonably obstruct or impede the right of travel upon the public highways of a driver of a motor vehicle or of a horse, and any one so doing shall be held amenable under this act.

§ 14. [*Rules of the Road—Rule at Crossways*].—Whenever a person walking in the traveled portion of a public highway, or a person riding, driving or leading a horse or other animal therein, or driving or operating a vehicle therein, shall meet another person thus walking or thus riding, driving or leading a horse or other animal, or thus driving or operating a vehicle, if such persons are moving in opposite directions, each shall slacken his pace, if necessary, and seasonably turn to the right so as to give half of the traveled road, if practicable, and a fair and equal opportunity to pass, to the other; or, if they are moving in the same direction, the person overtaking shall pass on the left side of the person overtaken, and the person overtaken shall, as soon as practicable, turn to the right so as to give half of the traveled road to the other. Any such person shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left. In cities or villages or any place where traffic is large, or on streets usually congested with traffic of horse-drawn vehicles or street cars, slow moving vehicles must keep near the right curb, allowing those moving more rapidly to keep nearer the center of the street. All vehicles, however, must keep to the right of the center of the street.

§ 15. [*Nonresidents Touring in State—Vehicle Registered Elsewhere*].—The provisions of the foregoing sections in regard to registration shall not apply to a motor vehicle owned by a nonresident of this state, who is temporarily within the state while passing into or through this state from an adjoining state, provided, that such nonresident shall have displayed in a conspicuous way on the motor vehicle he is operating, a number and tag which shall make it and the place from which it comes easily identified.

§ 16. [*Speed—General Considerations—Rate at Curves, Hills, Crossways, etc.*].—No person shall operate a motor vehicle on the public

highways of this state at a rate of speed greater than is reasonable and proper, having regard to the width, condition and use of the highway at the time and the general and usual rules of the road, or so as to endanger property or the life or limb of any person. Provided, that upon approaching a dam, bridge, sharp curve or steep descent, and also in traversing such dam, bridge, sharp curve or descent, and upon approaching a crossing or intersecting highway or in passing from a side street into a main thoroughfare where persons or vehicles are not plainly discernable, a person operating a motor vehicle shall have such vehicle under perfect control and the rate of speed shall not exceed one mile in eight minutes, nor on any street or highway shall the rate of speed exceed twenty-five miles per hour.

§ 17. [*Chauffeurs — Registration — Application — Fee*].—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the Secretary of State, upon the payment of a registration fee of two dollars, for the first certificate and one dollar for renewal thereafter, annually, a verified application for registration on a blank to be furnished by the Secretary of State for that purpose, containing:

(1) The name and address of the applicant and that he is competent to operate a motor vehicle.

(2) The trade name and motor power of the motor vehicle or vehicles he is competent to operate.

(3) Whether or not the applicant has been convicted of violation of any of the provisions of this or any other motor vehicle law or ordinance, giving the date and place of such conviction and the provision or provisions of the law or ordinance violated.

§ 18. [*Chauffeurs—Numbers—Record of Registrations*].—Upon the receipt of such an application the Secretary of State shall thereupon file the same in his office, assign the applicant a number and register him in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles.

§ 19. [*Chauffeur's Badge—Form—Display*].—The Secretary of State shall forthwith, upon registering such chauffeur, and without other fee, issue and deliver to him a badge of aluminum or other suitable metal, which shall be oval in form with its greater diameter not more than two inches, upon which shall be stamped the words "Registered Chauffeur Number..... State of Minnesota," with the number inserted therein. The badge shall thereafter be worn by such chauffeur, pinned upon his clothing in a conspicuous place, and at all times while he is operating a motor vehicle upon the public highways of this state.

§ 20. [*Transfer of Badge—Fictitious Badge*].—No chauffeur, having registered as hereinbefore provided, shall voluntarily permit any other

person to wear his badge; nor shall any person while operating a motor vehicle upon the public highways of this state wear a chauffeur's badge belonging to another person, or a fictitious chauffeur's badge.

§ 21. [*Necessity for Registration by Chauffeurs—Nonresidents*].—No person shall operate or drive a motor vehicle as chauffeur, upon the public highways of this state thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this act, provided, however, that a nonresident chauffeur, who has registered under the provisions of the law of the state of his residence which are substantially similar to the provisions of this section, shall be exempt from registration under this section; and, provided, further, he shall wear the badge assigned him in the state of his residence in the manner provided in section 19 of this act.

§ 22. [*Tampering with Vehicle—Using without Permission—Hurling Missiles*].—No person shall tamper with or drive or operate, or use a motor vehicle without the permission of the owner, and no person shall, without authority of the person in charge, climb upon or in any automobile, whether while the same is in motion or at rest, or hurl stones or any other missiles at the same, or occupants thereof, or shall, while such motor vehicle is at rest and unattended, sound the horn or other signaling device, or attempt to manipulate any of the levers, starting crank, brakes or machinery thereof, or set such vehicle in motion or otherwise damage or interfere with the same.

§ 23. [*Disposition of Moneys Received—Expense of Enforcing Act*].—At the end of each month, the secretary of state shall pay into the state treasury to the account of the general fund of the state, all moneys received by him under this act, and file with the state auditor a verified statement of the amount and sources thereof. For the purchase of tags, books of registration and the salary of an additional clerk in the office of the secretary of state, and not to exceed \$1,200 per annum, and the other necessary expenses provided in this act, the sum of \$10,000, or so much thereof as may be necessary, is annually appropriated out of the general fund of the state. On or before the 10th of each month, the secretary of state shall certify to the state auditor the items and amounts of all expenses necessarily incurred by him in the carrying out of this act, and such items and amounts being duly audited shall be paid by the state.

§ 24. [*Civil Actions Not Abridged—Number Proof of Ownership of Vehicle—Stepping in Case of Accident—Disclosing Identity*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil suit for damages by reason of injuries to persons or property resulting from the negligent use of the highways by a motor vehicle or its owner or his employee or agent, and in all actions and proceedings against the registered owner of a motor

vehicle for negligence in the operation of such vehicle or for any violation of this act, the fact that such motor vehicle had upon it the registration number assigned to such owner under this act, shall be *prima facie* evidence that such motor vehicle belonged to such registered owner. In case of accident to any person or property on the public highway due to the operation thereon of a motor vehicle, the person operating such motor vehicle shall stop, and, upon request of any person injured, or any person present, give such person his name and address.

§ 25. [*Laws Repealed Hereby*].—Sections 1273-1277, inclusive, of the Revised Laws of 1905 and all other acts or parts of acts inconsistent herewith are hereby expressly repealed.

§ 26. [*Penalty*].—Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

§ 27. [*Time of Taking Effect*].—This act shall take effect and be in force from and after May 15, 1909.

An Act making it a misdemeanor to take and remove automobiles and motor vehicles from any warehouse, garage or building, without the knowledge and consent of the owners.

[Act approved April 20, 1909; Laws 1909, c. 265.]

Be it enacted by the Legislature of the State of Minnesota:

§ 1. [*Taking Vehicle without Permission—Penalty*].—Any person who enters any warehouse, garage or building of any kind and takes and removes therefrom, for his own use or that of others, any automobile or motor vehicle, without the knowledge and consent, expressed or implied, of the owner thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished accordingly. The fact that such automobile or motor vehicle was voluntarily returned to its original place by the party taking the same before or after the owner discovers such removal, or the fact that the party taking the same was then and there in the employ of the owner of such property shall not be deemed a defense in the prosecution of such offender.

MISSOURI.

ACT OF MARCH 19, 1907.

- § 1. Definitions—"Motor Vehicle"—"Auto Driver"—"Highway," etc.
- 2. Registration of Vehicles—Certificate—Seal—Fee.
- 3. Sale of Registered Vehicle—Notice by Seller.

- § 4. Display of Number—Mode.
 5. Lights.
 6. Registration by Manufacturers and Dealers.
 7. Nonresidents—Vehicles Registered Elsewhere.
 8. Necessity for Registration—Fictitious or Other Number.
 9. Drivers — Registration — Certificate — Fee — Age — Removal from County.
 10. Driver's Badge—Form—Display.
 11. Nonresident Drivers—Registration Elsewhere.
 12. Necessity for Registration—Transfer of Badge—Fictitious Badge.
 13. Taking Vehicle without Permission.
 14. Equipment—Brakes—Signaling Device.
 15. Rules of the Road—Rule at Crossways.
 16. Duties Respecting Drivers of Horses—Stopping in Case of Accident—Disclosing Identity.
 17. Stopping on Signal—Stopping Motor—Assistance.
 18. Speed—Regard to Traffic—Rates.
 19. Local Regulations—License Taxes.
 20. Civil Actions Not Abridged.
 21. Penalties—Fine—Imprisonment—Forfeiture of Rights Hereunder.
 22. Care—Degree—Failure to Exercise—Damages for Injury or Death.
 23. Acts Repealed.

An Act to repeal an act entitled "An act regulating the operation and speed of automobiles on the public streets, roads and highways of this state; fixing the amount of license and prescribing a penalty for violating same," approved March 23, 1903, and to substitute in lieu thereof an act to provide for the (regulation) [registration] of motor vehicles and auto drivers; to provide regulations for the operation, use and speed of motor vehicles on the public highways; and prescribing penalties and civil liabilities for the violation thereof.

[Act approved March 19, 1907; Laws 1907, pp. 73-79].

Be it enacted by the General Assembly of the State of Missouri, as follows:

§ 1. [Definitions—"Motor Vehicle"—"Auto Driver"—"Highway," etc.].—The term and words "motor vehicle," as used in this act, shall be construed to mean all vehicles propelled by power other than muscular power, except traction engines and such vehicles as run only upon rails or tracks; the terms and words "business portion of any

city, town or village," as used in this act, shall be construed to mean the territory of a city or incorporated town or village contiguous to a public road or highway, which is at that point principally built up with structure[s] devoted to business; the term and word[s] "auto driver" shall be construed to mean any person operating a motor vehicle as mechanic, paid employe, or for hire; the terms and words "public highway," or "highways," as used in this act, shall be construed to mean any public road, thoroughfare or highway, county road, township road, toll road, or any public street, avenue, alley, parkway or other places generally used for public travel, driveway in any city, town, village, county or township or other municipal corporation or political subdivision in this state.

§ 2. [*Registration of Vehicles—Certificate—Seal—Fee*].—Every person in this state now owning or hereafter acquiring a motor vehicle shall, for every motor vehicle owned by him, file in the office of the secretary of state a statement containing his name and address, a brief description of the motor vehicle to be registered, the name of the maker, factory number, style of vehicle and [motive] power, on a blank to be prepared and furnished by said secretary of state for that purpose. Upon the filing of said statement, the secretary of state shall register such motor vehicle in a book, to be kept for that purpose, and assign it a distinctive number; and upon payment of the fee, as hereinafter provided, shall forthwith issue and deliver to the owner of such motor vehicle a certificate of registration and a seal of aluminum or other suitable metal, which said seal shall be circular in form, approximately two inches in diameter, and shall have stamped thereon the word "Registered motor vehicle No. ——— Missouri motor vehicle law," with the registration number inserted therein, which seal shall thereafter at all times be attached to the motor vehicle to which said number has been assigned. The certificate of registration shall contain the same words and number as the seal, and shall further contain the name of the owner of the vehicle so registered, as aforesaid, his address, the name of the maker of said vehicle, factory number, style and motive power, the date of registration, and the page of the book in the office of the secretary of state in which the same is registered. For such registration and issuing of such certificate and seal, a fee of five (\$5.00) dollars shall be paid to the secretary of state. The proceeds of license required by this act shall be for the benefit of the "good road fund."

§ 3. [*Sale of Registered Vehicle—Notice by Seller*].—Upon the sale of any motor vehicle registered in accordance with this act, except by a manufacturer or dealer, its registration shall expire and the seller shall, within ten (10) days of said sale, return to the secretary of state the certificate of registration and the seal, together with notice

of the sale and of the name, place of residence and address of the purchaser.

§ 4. [*Display of Number—Mode*].—The owner of each motor vehicle shall have a number, corresponding with the number of the registration seal issued by the secretary of state, as heretofore provided, conspicuously displayed upon and permanently fixed on the back of every such motor vehicle owned by him; also display by an illuminated device the registration number on front of every such motor vehicle so that said registration number of said motor vehicle can be distinguished at night, whenever the same shall be operated or run upon the public highways in this state; the figures to be Arabic numerals not less than three inches in height, and each stroke to be of a width not less than three-eighths ($\frac{3}{8}$) of an inch, and also as part of such number the letters "Mo."; such figures and letters shall be white on black ground, and the letters shall not be less than one and one-half ($1\frac{1}{2}$) inches in height; and provided, that said owner shall not be required to place any other mark of identity upon his motor vehicle.

§ 5. [*Lights*].—Every motor vehicle, when operated upon any of the public highways, shall carry, during the period from sunset to sunrise, at least two lighted lamps showing white lights visible at least two hundred (200) feet in the direction toward which the motor vehicle is proceeding, and shall also exhibit at least one red light, visible in the reverse direction.

§ 6. [*Registration by Manufacturers and Dealers*].—Each manufacturer of and dealer in motor vehicles doing business in this state, shall register one vehicle of each class manufactured or dealt in by him, and if a number, corresponding to the number of the registration seal issued to such manufacturer or dealer, is displayed upon every vehicle of the class for which it was issued, as provided in this section, while such vehicle is being operated by such manufacturer or dealer or his agent or representative on the public highway, it shall be deemed a sufficient compliance with sections two and four of this act, until such vehicle shall be sold or let for hire: Provided, that electrically propelled motor vehicles shall constitute a class, steam propelled vehicles shall constitute a class, and those propelled by gasoline explosive type engines or motors shall constitute a class; and provided further, that nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for his private use or for hire.

§ 7. [*Nonresidents—Vehicles Registered Elsewhere*].—That provisions of sections two, three and four of this act shall not apply to any motor vehicle owned by nonresidents of this state, unless such motor vehicle remain in the state twenty days or more: Provided, the owner thereof has complied with any law requiring the registra-

tion of motor vehicles or the names of the owners thereof in force in any city, state, territory or federal district of his residence; and provided a registration number and the initial or abbreviation of the name of such city, state, territory or federal district shall be displayed on such vehicle substantially as provided in section four of this act.

§ 8. [*Necessity for Registration—Fictitious or Other Number*].—No motor vehicle shall be used, driven or operated upon the public highway of this state after thirty (30) days from the time this act takes effect, unless the owner shall have complied in all respects with sections two, three, four, five, six and seven of this act; or which shall display thereon a fictitious seal or number belonging to any other vehicle.

§ 9. [*Drivers—Registration—Certificate—Fee—Age—Removal from County*].—Every person hereafter desiring to operate a motor vehicle as an auto driver shall file in the office of the secretary of state a sworn statement containing his name, age and address, and the trade name, style and motive power of the motor vehicles he is competent to operate, on a blank to be prepared and furnished by the secretary of state for that purpose. Upon the filing of such statement, the secretary of state shall register the name of the said person in a book to be kept for that purpose, and assign to him a distinctive number; and upon payment of the fee, as hereinafter provided, shall forthwith issue and deliver to him a certificate of registration, which shall contain the name and address of the person so registered and the words "Registered auto driver No. ——— Missouri motor vehicle law," and the registration number and the name and motive power of the motor vehicles which said person states he is competent to operate, the date of registration, and the page of the book in which said person is registered; and for such registration and issuing of such certificate a fee of two (\$2.00) dollars shall be paid to the secretary of state: Provided, that no certificate of registration shall be issued to any person under the age of eighteen (18) years; and provided, further, that if any person registered in accordance with this act shall remove from the county in which he resided when his statement was filed, his certificate of registration shall thereupon expire, and he shall file another statement giving the address to which he has removed.

§ 10. [*Driver's Badge—Form—Display*].—The secretary of state shall forthwith upon registration as provided in section nine (9), and without other fee, issue and deliver to the person registered a badge of aluminum or other suitable metal, which shall be oval in form, and the greater diameter of which shall not be more than two (2) inches, which badge shall have thereon the words "Registered auto driver number ———," with the registration number inserted therein,

and which said badge shall be thereafter worn by such auto driver and pinned upon his clothing in a conspicuous place, at all times while he is operating a motor vehicle upon the public highways.

§ 11. [*Nonresident Drivers—Registration Elsewhere*].—The provisions of sections nine and ten of this act shall not apply to any auto driver who is a nonresident of this state, and who shall be operating a motor vehicle owned by a nonresident of this state, unless he shall operate in this state 20 days or more: Provided, such auto driver shall have complied with any law requiring the registration or licensing of auto driver [s] in the city, state, territory or federal district of his residence, provided the motor vehicle so operated or driven by him shall have been registered by the owner thereof, and shall bear the registration number showing initial or abbreviation of the name of such city, state, territory or federal district in which the said motor vehicle has been registered, substantially as in section two of this act provided.

§ 12. [*Necessity for Registration—Transfer of Badge—Fictitious Badge*].—No person who shall not have complied with the provisions of sections nine, ten and eleven of this act, shall operate a motor vehicle, as auto driver, on the public highways of this state after thirty (30) days from the time this act takes effect; and no person shall voluntarily permit any other person to wear his badge; nor shall any person wear a fictitious badge or badge belonging to any other person.

§ 13. [*Taking Vehicle Without Permission*].—No person, whether employed as an auto driver or otherwise, shall take, use, operate or run any motor vehicle without the consent, permission or knowledge of the owner thereof.

§ 14. [*Equipment—Brakes—Signaling Device*].—Every motor vehicle, while in use on a public highway, shall be provided with good and suitable brakes, and also with a suitable horn, bell or other signal device.

§ 15. [*Rules of the Road—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, the person so operating such motor vehicle shall seasonably turn the same to the right of the center of such highway, so as to pass without interference. Any such person so operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right, so as to allow free passage on the left. Any such person so operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the

center of such highways when turning to the right, and pass to the right of such intersection when turning to the left.

§ 16. [*Duties Respecting Drivers of Horses—Stopping in Case of Accident—Disclosing Identity*].—Every person, corporation, company or copartnership engaged in operating any motor vehicle upon any of the public streets, roads or highways of this state shall keep a vigilant watch for all vehicles, carriages or wagons drawn by animal or animals, and especially vehicles, carriages or wagons driven by women or children, and shall, when approaching any such vehicle, carriage or wagon so drawn by animal or animals, stop such motor vehicle for such time as to enable such person in charge of any such vehicle, carriage or wagon to pass, or if going in the same direction shall, before attempting to pass, give said driver or person in charge of any vehicle, carriage or wagon, drawn by animal or animals, sufficient notice of his or their intention to pass, by (the) sounding a bell, whistle or horn, and if necessary to prevent the frightening of such animal or animals, bring said motor vehicle to a stop, in order to give such driver or person an opportunity to alight from such vehicle, carriage or wagon, and in case of an injury to a person or damage to property, the operator of such motor vehicle shall stop, and upon request of a person injured or property damaged, or any person present, shall give his name and address, and if he is not the owner of such motor vehicle, he shall give the name and address of such owner.

§ 17. [*Stopping on Signal—Stopping Motor—Assistance*].—Every person operating a motor vehicle on the public highway shall, at request or upon signal by holding up the hand or otherwise, from a person riding or driving a horse or horses, or leading a horse or horses or other draft animals on the highway, shall cause the motor vehicle to stop and remain stationary, and shall, if requested, stop the engine of such motor vehicle so long as may be necessary to allow the said horse or horses or other draft animal to pass; and it shall be the duty of any male auto driver or driver of any motor vehicle, and other male occupants thereof, over the age of 15 years, while passing any horse or horses or other draft animals which appear badly frightened, or upon the request of the person in charge of such horse or horses or other draft animal, to give such personal assistance as would be reasonable to insure the safety of all persons concerned and to prevent accidents. The provisions of this section shall apply to motor vehicles going either in the same or in the opposite direction: Provided, however, that no person shall give a signal of danger or distress, or call for assistance upon a person operating a motor vehicle without a reasonable cause for so doing.

§ 18. [*Speed—Regard to Traffic—Rates*].—No person shall operate

a motor vehicle on any public highway at a greater rate of speed than is reasonable, having regard to the traffic and use of the highway, or so as to endanger the life and limb of any person, or the safety of any property, and shall not in any event, while upon any public highway, run at a greater rate of speed than fifteen miles an hour; and when turning a corner of intersecting roads or streets, or when traversing a curve or turn in the road or street, where the view is obstructed, the speed shall not be greater than six miles an hour; and within the limits of all cities, town[s] and villages the rate of speed shall not be greater than eight miles per hour in the business portion of any city, town or village, and not greater than ten miles per hour in all other portions thereof.

§ 19. [*Local Regulations—License Taxes*].—No owner of a motor vehicle who shall have obtained a certificate of registration from the secretary of state, as hereinbefore provided, shall be required to obtain any other certificate to use or operate such motor vehicle on any of the public highways: Provided, cities, towns, and villages where the owner of such motor vehicle resides, may require a license tax to be paid by such owner: Provided, further, that when the owner of any motor vehicle shall have complied with the requirements in that respect of the city, town or village where he resides, he shall not be required to pay any license tax to any city, town or village through which he may pass.

§ 20. [*Civil Actions Not Abridged*].—Nothing in this act contained shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from negligent use of the highway by the driver or operator of a motor vehicle, or its owner or employe or agent.

§ 21. [*Penalties—Fine—Imprisonment—Forfeiture of Rights Hereunder*].—Any person, corporation, company or copartnership violating any of the provisions of this act shall, for the first offense be punished by a fine of not less than \$25.00 nor more than \$100.00, and for the second violation of the provisions of this act, be punished by a fine of not less than \$50.00 nor more than \$500.00, or by imprisonment in the county jail not more than sixty days, and shall forfeit all rights and privileges provided for under the provisions of this act.

§ 22. [*Care—Degree—Failure to Exercise—Damages for Injury or Death*].—All persons owning, operating or controlling an automobile running on, upon, along or across public roads, streets, avenues, alleys, highways or places much used for travel, shall use the highest degree of care that a very careful person would use, under like or similar circumstances, to prevent injury or death to persons on, or traveling over, upon or across such public roads, streets, avenues, alleys, highways or places much used for travel. Any owner, operator or person

in control of an automobile, failing to use such degree of care, shall be liable in damages to a person or property injured by the failure of the owner, operator or person in control of an automobile, to use such degree of care, and in case of the death of the injured party, then damages for such injury or death may be recovered, as provided by section 2864 of the Revised Statutes of Missouri, as amended in 1905; unless the injury or death is caused by the direct negligence of the injured or deceased person, contributing directly thereto.

§ 23. [*Acts Repealed*].—An act entitled "An act regulating the operation and speed of automobiles on the public streets, roads and highways of this state, fixing the amount of license, and prescribing a penalty for violating same," approved March 23, 1903, is hereby repealed, and all other acts or parts of acts inconsistent herewith or contrary hereto are, so far as they are inconsistent or contrary, hereby repealed.

MONTANA.

ACT OF MARCH 7, 1905.

- § 1. Speed—Rates.
2. Approaching Horses—Care—Stopping.
3. Speed at Crossways.
4. "Motor Vehicle" Defined.
5. Penalties.
6. Acts Repealed.
7. Time of Taking Effect.

An Act to regulate the speed and operation of automobiles and motor vehicles on highways.

[Act approved March 7, 1905; Acts 1905, c. 101.]

Be it enacted by the Legislature Assembly of the State of Montana:

§ 1. [*Speed—Rates*].—No automobile or other motor vehicle shall be run on any public highway outside the limits of a city, fire district or thickly settled or business part of a town at a speed exceeding twenty miles an hour, and no such vehicle shall be run on any public way within the limits of a city, fire district, or of any thickly settled or business part of a town at a speed exceeding eight miles an hour.

§ 2. [*Approaching Horses—Care—Stopping*].—Every person having control or charge of a motor vehicle or automobile shall, whenever upon any public street or way and approaching any vehicle drawn by horse, mule, horses or mules or any horse upon which any person is riding, operate, manage and control such motor vehicle or automo-

bile in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses, and to insure the safety and protection of any person riding or driving the same. And if such horse or horses appear frightened, the person in control of such motor vehicle shall reduce its speed, and if requested by signal or otherwise by the driver of such horse or horses, shall not proceed farther towards such animal unless such movement be necessary to avoid accident or injury, or until such animal appears to be under the control of its rider or driver.

§ 3. [*Speed at Crossways*].—Upon approaching a crossing of intersecting ways, and also in traversing the crossing or intersection, the person in control of a motor vehicle shall run it at a rate of speed less than that above specified, and not greater than is reasonable and proper, having regard to the traffic and the use of the intersecting ways.

§ 4. [*"Motor Vehicle" Defined*].—The term "motor vehicle" in this act shall include all vehicles propelled by any power other than muscular power, excepting railroad and railway cars and motor vehicles running only upon rails or tracks.

§ 5. [*Penalties*].—Any person violating any provision of this act shall be punished for each offense by a fine not exceeding one hundred dollars, or by imprisonment for a term not exceeding sixty days, or by both such fine and imprisonment.

§ 6. [*Acts Repealed*].—All acts and parts of acts in conflict herewith are hereby repealed.

§ 7. [*Time of Taking Effect*].—This act shall take effect and be in full force from and after, its passage.

NEBRASKA.

ACT OF APRIL 3, 1907.

- § 1. Definitions—"Motor Vehicles"—"Closely Built Up Portions."
 2. Registration—Application—Fee—Change of Ownership.
 3. Record of Registration—Assignment of Number.
 4. Previously Registered Vehicles.
 5. Seals—Form—Display.
 6. Display of Number—Mode.
 7. Nonresidents—Vehicles Registered Elsewhere.
 8. Speed—General Considerations—Rates.
 9. Stopping on Signal—Assistance.
 10. Equipment—Brakes—Signaling Device—Lights.
 11. Local Regulations—Vehicles for Hire.

§ 12. Publication of Names of Owners—Price—Disposition of Proceeds.

13. Penalties.

An Act requiring and regulating the registration and licensing of motor vehicles, regulating their use and operation upon the highways and streets, and to repeal Sections 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, and 151 of Chapter 78, of the Compiled Statutes of Nebraska.

[Act approved April 3, 1907; Laws 1907, c. 115.]

Be it enacted by the Legislature of the State of Nebraska:

§ 1. [*Definitions—"Motor Vehicles"—"Closely Built up Portions"*].—The words and phrases used in this act shall, for the purpose of this act only, be construed as follows: 1. "Motor Vehicles," shall include all vehicles propelled by any power other than muscular power, excepting such motor vehicles as run only upon rails or tracks, provided that nothing herein contained shall apply to traction engines or road rollers; 2. "closely built up portions," shall mean the territory of a city, town or village contiguous to a public highway devoted to business or where for not less than one-fourth ($\frac{1}{4}$) of a mile the dwelling houses on such highways average not more than one hundred (100) feet apart.

§ 2. [*Registration—Application—Fee—Change of Ownership*].—Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered, on a blank prepared and furnished by such secretary for that purpose. The fee shall be \$1.00 per year, and must accompany the application for registration and license; subsequent payments must be made on, or before the date of expiration of said registration and license, which is for one year from date thereof. For registering charge of ownership the fee shall be \$1.00. A certified copy of the bill of sale must accompany such application.

§ 3. [*Record of Registration—Assignment of Number*].—The secretary of state shall thereupon file such a statement in his office, register such motor vehicle in a book to be kept for that purpose and assign it a number beginning with number one (1) and so on in the order of filing.

§ 4. [*Previously Registered Vehicles*].—Every person acquiring a motor vehicle shall file a like statement with the secretary of state and such secretary of the state shall, in like manner, file such statement, register such vehicle and assign it a number. If the vehicle has previously been registered, and such fact and number assigned it

shall be set forth in the statement, and the previous registration shall be canceled; but the number of such previous registration may be assigned under the new registration.

§ 5. [*Seals—Form—Display*].—The secretary of state shall forthwith on such registration and without other fee, issue and deliver to the owner of such motor vehicle, a seal of aluminum or other suitable metal, which shall be circular in form, not over two inches (2) in diameter, and have stamped thereon the words, "Registered in the office of the secretary of state for the state of Nebraska under the motor vehicle law No. —" with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 6. [*Display of Number—Mode*].—Every motor vehicle shall also at all times have the number assigned to it by the secretary of state displayed on the back of such motor vehicle in such a manner as to be plainly visible, the number to be Arabian numerals, each not less than three (3) inches in height, and each stroke to be of a width not less than one-half ($\frac{1}{2}$) inch, and also as a part of such number the abbreviated letters of the states named, viz: Neb., such letters to be not less than two (2) inches in height.

§ 7. [*Nonresidents—Vehicles Registered Elsewhere*].—The provisions of sections two (2) to five (5) inclusive shall not apply to motor vehicles owned and operated by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initials of such state, territory or federal district shall be displayed on such vehicles substantially as provided by section six (6) of this act.

§ 8. [*Speed—General Considerations—Rates*].—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or in any event in the close built up portions of a city, town, or village, at a greater rate than one (1) mile in six (6) minutes, or elsewhere in a city, town or village, at a greater rate than one (1) mile in four (4) minutes, or elsewhere outside of the city, town or village, at a greater rate than twenty miles per hour; subject, however, to the other provisions of this section. Upon approaching a crossing of intersecting public highways, or a bridge or a sharp curve, or a steep descent, and also in traveling such crossings, bridges, curves, or descent, a person operating a motor vehicle shall have it under control and operated at a rate of speed less than heretofore specified, and in no event greater than is reasonable and proper, hav-

ing regard to the traffic then on such highways and the safety of the public.

§ 9. [*Stopping on Signal—Assistance*].—Any person operating a motor vehicle shall at request or on signal by putting up the hand, from a person riding or driving a restive horse or other draught or domestic animal, bring such motor vehicle immediately to a stop, and if traveling in the opposite direction remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in passing such horse or animals, and the operator or occupant of any motor vehicle shall render necessary assistance to the party having in charge such a horse or other draught animal in so passing.

§ 10. [*Equipment—Brakes—Signaling Device—Lights*].—Every motor vehicle while in use on a public highway shall be provided with good and sufficient brakes, and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period from one (1) hour after sunset to one (1) hour before sunrise, one or more lamps showing white lights visible within a reasonable distance toward which such a vehicle is proceeding, and also red light visible in the reverse direction.

§ 11. [*Local Regulations—Vehicles for Hire*].—Cities and towns shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highway or exclude or prohibit any motor vehicle whose owner has complied with section two (2) or section four (4) of this act from the free use of such highways, and all such ordinances, rules and regulations now in force, are hereby declared to be of no validity or effect; provided that nothing in this act shall be construed as limiting the power of local authorities to make and force and maintain an ordinance, rules or regulations, in addition to the provisions of this act, affecting motor vehicles which are offered to the public for hire.

§ 12. [*Publication of Names of Owners—Price—Disposition of Proceeds*].—The secretary of state may, at his discretion, publish in pamphlet form the names of owners of motor vehicles who have registered and pay the expense from the office expense fund of his department, providing such publication may be sold for not less than \$1.00 per copy. The proceeds of said sale to be paid to the state treasurer for the general fund as miscellaneous fees.

§ 13. [*Penalties*].—The violation of any of the provisions of this act shall be deemed a misdemeanor, punishable by fine not exceeding twenty-five dollars (\$25.00) for the first offense, and punishable by a fine not less than twenty-five dollars (\$25.00) nor more than fifty

dollars (\$50.00), or imprisonment not exceeding thirty days (30) in the county jail for a second or subsequent offense.

NEW HAMPSHIRE.

ACT OF MARCH 10, 1905.

- § 1. Automobile and Motor Cycle Defined.
- 4. Operator's License—Numbers—Duration—Fee—Vehicles for Hire—Qualifications of Applicants—Exhibition of License.
- 5. Necessity for Compliance Herewith—Display of Number—Plates—Vehicles for Hire.
- 7. Equipment—Brake—Muffler—Signaling Device—Lights.
- 9. Approaching Horses—Care—Stopping on Signal—Stopping Motor.
- 10. Penalties—Fine—Revocation of License—Driving After Revocation—Record of Convictions.
- 12. Races—Authority to Permit—Notice to Residents on Highway—Expenses.
- 13. Injury—Prima Facie Case—Vehicles Left Unattended.
- 14. Time of Taking Effect.

ACT OF APRIL 9, 1909.

- § 1. Registration of Vehicles—Application—Fees—Record—Numbers—Certificates—Plates—Sale of Vehicles.
- 2. Registration by Manufacturers and Dealers.
- 3. Vehicles Registered Elsewhere—Nonresident Operators.
- 4. Speed—Rates.
- 5. Enforcement Hereof—Disposition of Fees.
- 6. Time of Taking Effect.

An Act to provide for registering, numbering and regulating the speed of automobiles and motor vehicles and for licensing the operator thereof.

[Act approved March 10, 1905; Laws 1905, c. 86.]

Be it enacted by the Senate and House of Representatives in General Court convened:

§ 1. [*Automobile and Motor Cycle Defined*].—The terms automobile and motor cycle as used in this act shall include all vehicles propelled by other than muscular power, except railroad and railway

cars and motor vehicles running only upon rails or tracks and road rollers.

§§ 2, 3. [Superseded by Act of April 9, 1909.]

§ 4. [*Operator's License—Numbers—Duration—Fee—Vehicles for Hire—Qualifications of Applicants—Exhibition of License*].—No person shall operate an automobile or motor cycle until he shall have first obtained a license for that purpose. Applications for licenses shall be made upon blanks prepared by the secretary of state, and the licenses issued shall be in such form and contain such provisions as said secretary of state may determine. To each licensee shall be assigned a distinguishing number or mark, and a proper record of all applications for licenses and of all licenses issued shall be kept by the secretary of state at his office and shall be open to the inspection of any person during reasonable business hours. Each license shall state the name, place of residence and address of the licensee, and the distinguishing number or mark assigned to him. Such licenses shall be granted for one year only, and the fee therefor shall be one dollar. All fees shall be deposited at the time of making the application. Special licenses for operating automobiles for hire may be issued by the secretary of state for an annual fee of five dollars each, but no license shall be issued under the provisions of this section until the secretary of state shall have first satisfied himself that the applicant is a competent and proper person to receive the same. Every licensee when operating a machine shall keep his license with him and exhibit it upon the request of any officer of the law.

§ 5. [*Necessity for Compliance Herewith—Display of Number—Plates—Vehicles for Hire*].—Except as hereinafter provided, no person shall on or after the first day of May in the year nineteen hundred and five, operate an automobile or motor cycle upon any highway laid out under the authority of statute or road dedicated to the public use for a highway, unless the provisions of sections 2 and 4 of this act have been complied with, nor unless the registered number or mark is at all times so displayed at two points upon the vehicle as to be unobstructedly visible, respectively from in front of, and behind said vehicle. Number plates furnished by the secretary of state shall be the only approved form of display of the distinguishing number or mark and the same shall be of uniform style, bearing the number legibly inscribed upon them in figures not less than four inches in height followed by the letters N. H. Motor cycles shall be required to carry but one number plate which must be constantly displayed in the most conspicuous position practicable. No person shall operate an automobile for hire unless specially licensed so to do, and no person shall employ for hire as chauffeur or operator of an automobile, any person not specially licensed as aforesaid, and the

secretary of state may make regulations requiring a display of the chauffeur's or operator's number or mark. The provisions of this section shall not prevent the operating of automobiles by unlicensed persons if riding with or accompanied by a licensed chauffeur or operator.

§ 6. [Superseded by Act of April 9, 1909.]

§ 7. [*Equipment—Brake—Muffler—Signaling Device—Lights*].—Every automobile or motorcycle operated within the state shall be provided with an adequate brake, with an efficient muffler or silencing device which shall constantly be maintained in use whenever the vehicle is operated within business districts or the compactly built sections of cities or towns. Every automobile or motor cycle shall further be provided with a suitable bell, horn, or other means of signaling and shall during the period from one hour after sunset until one hour before sunrise, display lighted lamps upon the faces of which shall be displayed the distinguishing number of the machine in legible figures of not less than one inch in height.

§ 8. [Superseded by Act of April 9, 1909.]

§ 9. [*Approaching Horses—Care—Stopping on Signal—Stopping Motor*].—Every person having control or charge of an automobile or motor cycle, shall, whenever upon any public street or way and approaching any vehicle drawn by a horse or horses or approaching any horse upon which any person is riding, operate, manage and control such automobile or motor cycle in such a manner as to exercise every reasonable precaution to prevent the frightening of such horse or horses and to insure the safety and protection of any person riding or driving the same. And, if such horse or horses appear to be frightened, the person in control of such automobile or motor cycle shall reduce its speed, and if requested by the raising of a hand or other signal, by the rider or driver of such horse or horses, shall not proceed further towards such animal and in cases of extreme fright shall upon request reduce the motive power to a full stop.

§ 10. [*Penalties—Fine—Revocation of License—Driving After Revocation—Record of Convictions*].—Any person convicted of violating any provisions of this act shall be punished for the first offense by a fine of not exceeding ten dollars and costs. Any person convicted of a second or subsequent offense shall be punished by a fine of not exceeding fifty dollars and the revocation of his license or privilege. Any person convicted of operating an automobile or motor cycle after a revocation or suspension of his license or privilege, shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. A court convicting any person of violating any of the provisions of this act shall at once notify the secretary of state of such

conviction, with the number, or mark of the machine and license, and shall transmit other information obtained at the hearing. This shall be recorded by the secretary of state, and if at any time it shall appear that any person has been convicted of a first offense in more than one court in this state the fact of the second conviction shall be deemed a second offense and his license, or, if a nonresident, his privilege, shall be revoked. Upon such revocation his license shall be returned to the secretary of state. The secretary of state shall not again grant a new license, to any person, or renew the privilege of a nonresident, after revocation under the provisions of this section, except for good reasons shown and not before the expiration of three months from the date of such revocation.

§ 11. [Superseded by Act of April 9, 1909.]

§ 12. [*Races—Authority to Permit—Notice to Residents on Highway—Expenses*].—Nothing in this act shall be construed to prevent the selectmen of any town, or the joint boards of the selectmen of two or more adjoining towns, from issuing a special permit to the manager or person in charge of an automobile meet or gathering, for trials of speed or endurance upon a particular highway or over a specified route. But such permit shall be limited to days specified therein. Every family residing on such highway or route shall be notified in writing, and the public shall be notified by publication in the local newspapers issued the week next prior to such meeting, that such permit has been granted. All expenses incurred under this section shall be paid by the applicant and no such permit shall be a protection from the general provisions of this act except upon a strict compliance herewith, and shall in no way annul or modify any of the provisions of section 9 of this act.

§ 13. [*Injury—Prima Facie Case—Vehicles Left Unattended*].—If any person sustains an injury to himself or team on any public highway by reason of the presence of any automobile or motor cycle thereon, the fact of such injury shall be *prima facie* evidence sufficient to sustain an action of case to recover for such injury, unless the vehicle causing such injury is under the control of or accompanied by a person holding a chauffeur's or operator's license. This section shall not apply to any automobile or motor cycle left in any highway from necessity, or otherwise left in a reasonable manner, by a licensed chauffeur or operator.

§ 14. [*Time of Taking Effect*].—Except as otherwise provided herein this act shall take effect upon its passage.

An Act relative to motor vehicles and to the operation thereof.

[Act approved April 9, 1909; Laws 1909, c. 154.]

Be it enacted by the Senate and House of Representatives in General Court convened:

§ 1. [*Registration of Vehicles—Application—Fees—Record—Numbers—Certificates—Plates—Sale of Vehicles*].—That section 2 of chapter 86 of the laws of 1905 be amended by striking out the words, "three dollars" in the seventeenth and eighteenth line of said section, and substituting therefor the following: Ten dollars in the case of an automobile and two dollars in the case of a motor cycle; further amend said section 2 of said chapter 86 by adding after the word "hours," in the thirty-third line, the following: Each certificate of registration shall terminate on December 31 of the year of issue. So that said section as amended shall read as follows: Sect. 2. All automobiles and motor cycles shall be registered by the owner or person in control thereof in accordance with the provisions of this act. Applications for such registration shall be made by mail or otherwise to the secretary of state, upon blanks prepared under his authority. The application shall, in addition to such other particulars as may be required by the secretary of state, contain a statement of the name, place of residence, and address of the applicant, with a brief description of the automobile or motor cycle, including the name of the maker, the number, if any, affixed by the maker, the character of the motive power and the amount of such power stated in figures of horse power, and with such application shall be deposited a registration fee of ten dollars in the case of an automobile and two dollars in the case of a motor cycle. Said secretary of state shall then register in a book to be kept for that purpose, the automobile or motor cycle described in the application, giving to such vehicle a distinguishing number or mark, which in all cases shall be followed by the letters "N. H.," and shall thereupon issue to the applicant a certificate of registration and shall furnish such applicant with two number plates or tags bearing the distinguishing number or mark of his vehicle, followed by the letters "N. H.," of such form as to be conveniently attached to the vehicle registered. The certificate shall contain the name, place of residence and address of the applicant, and the registered number or mark, and shall prescribe the manner in which such registered number or mark shall be displayed upon the vehicle, and shall be in such form and contain such further provisions as the secretary of state may prescribe. The certificate of registration shall always be carried in some easily accessible place in the vehicle described therein. A proper record of all applications and of all certificates issued shall be kept by the secretary of state at his office and shall be open to the inspection of any person during reasonable business hours. Each certificate of registration shall terminate on

December 31 of the year of issue. Upon the sale of any automobile or motor cycle its registration shall expire and the vendor shall immediately return the certificate of registration and number plates to said secretary of state, with notice of the sale and of the name, place of residence and address of the vendee.

§ 2. [*Registration by Manufacturers and Dealers*].—That section 3 of said chapter be amended by inserting after the word, "dollars," in the sixteenth line thereof the word annually, so that said section as amended shall read as follows: Sect. 3. Every manufacturer of or dealer in automobiles or motor cycles, may instead of registering each such vehicle owned or controlled by him, make application upon a blank provided by the Secretary of State, for a general distinguishing number or mark, and the secretary of state shall, if the facts stated in said application are true, grant said application and issue to the applicant a certificate of registration containing the name, place of residence and address of the applicant and the general number or mark assigned to him and made in such form and containing such further provisions as said secretary of state may determine, and all automobiles or motor cycles owned or controlled by such manufacturer or dealer shall until sold or let for hire, or loaned for a period of more than ten successive days, be regarded as registered under such general distinguishing mark or number. The fee for every such license shall be twenty-five dollars, annually and approved number plates or tags shall be furnished to the applicant by said secretary of state for the sum of one dollar per pair.

§ 3. [*Vehicles Registered Elsewhere—Nonresident Operators*].—That section 6 of said chapter be amended by adding after the word, "state," in the third line of said section the following: for ten days continuously, at the expiration of which time they shall be subject to registration the same as automobiles and motor cycles owned by residents of the state; so that said section as amended shall read as follows: Sect. 6. Automobiles or motor cycles owned by nonresidents of this state and registered in some other state may be operated upon the roads and highways of this state, for ten days continuously, at the expiration of which time they shall be subject to registration the same as automobiles and motor cycles owned by residents of the state, subject, however, to the speed limitations contained in this act. Any nonresident person holding an operator's or chauffeur's license from another state may operate an automobile or motor cycle in this state subject to a revocation or suspension of such right by the secretary of state for cause as hereinafter provided.

§ 4. [*Speed—Rates*].—That section 8 of chapter 86 of the Laws of 1905 be amended by striking out after the word "than" in the third line the word "twenty" and inserting in place thereof the word twenty-

five, and striking out after the word "than" in the fifth line the word "eight" and inserting in place thereof the word ten, so that said section as amended shall read as follows: Sect. 8. No automobile or motor cycle shall be operated upon any public highway outside the business district or the compactly built sections of a city or town at a speed greater than twenty-five miles an hour, or within the business districts or compactly built sections of a city or town, at a speed greater than ten miles an hour. A point upon a road shall be considered to be within the compactly built section of a city or town if the buildings abutting upon the road for one quarter of a mile immediately adjacent to the point in question average one hundred feet apart or less. Upon traversing a crossing of intersecting ways in going around a corner or curve which cuts off a free view of the road to be traversed, or in traversing a highway bordering a steep descent or passing over a bridge, every person operating such a vehicle shall run it at a rate of speed less than that heretofore specified and at no time and in no place greater than is reasonable and proper, having regard to traffic, the use of the way and the safety of the public. In traversing a crossing of intersecting ways or going around a corner or sharp curve in a road, the operator shall sound his horn or bell.

§ 5. [*Enforcement Hereof—Disposition of Fees*].—That section 11 of said chapter be amended by adding to said section the following: All fees in excess of the sums necessary to carry out the provisions of this chapter shall be expended for the maintenance and improvement of the highways under the direction of the governor and council in accordance with the provisions of chapter 35, Laws of 1905, and amendments thereof, said balance to be in addition to all sums already appropriated or that may hereafter be appropriated by the general court for the same purpose. So that said section as amended shall read as follows: Sect. 11. It shall be the duty of the secretary of state to perform all acts as provided herein. The fees received under the provisions of this act shall be paid quarterly by the secretary of state into the treasury of the state, and such expenses as may be necessary in carrying out the provisions of this act shall be paid out of the treasury of the state. All fees in excess of the sums necessary to carry out the provisions of this chapter shall be expended for the maintenance and improvement of the highways under the direction of the governor and council, in accordance with the provisions of chapter 35, Laws of 1905, and amendments thereof, said balance to be in addition to all sums already appropriated or that may hereafter be appropriated by the general court for the same purpose.

§ 6. [*Time of Taking Effect*].—This act shall take effect January

1, 1910, upon which date all registrations of automobiles and motor cycles issued prior thereto shall terminate.

NEW JERSEY.

ACT OF APRIL 12, 1906.

- § 1. Definitions—"Motor Vehicle"—"Motor Cycle"—"Automobile"—
"Magistrate."
- 2. Fire Engines, Road Rollers and Traction Engines.
- 3. Signaling Device.
- 5. Brakes.
- 8. Motor Vehicle Department—Quarters—Disbursements.
- 10. Registration of Vehicles—Authority of Officials Respecting.
- 11. Powers of Commissioner—Licensing and Registration.
- 12. Powers and Duties of Commissioner—Collection of Data—
Reports—Enforcement of Act.
- 13. Records of Commissioner—Copies.
- 14. Inspectors of Vehicles—Powers—Arrest without Warrant.
- 15. Driving Unregistered Vehicle—Other or Fictitious Numbers.
- 18. Driver's License—Contents—Production.
- 19. Driving While Intoxicated.
- 20. Driving without Owner's Consent.
- 22. Subdiv. 1. Rules of Road—Meeting and Overtaking.
 - 2. Local Regulations—Speedways—Parks.
 - 3. Driving in Race or on Bet.
 - 4. Accident—Stopping and Disclosing Identity.
- 24. Physicians—Speeding.
- 26. Subdiv. 1. Prosecutions—Process—Trial.
 - 2. Prosecution of Corporations.
- 27. Trial—Adjournment—Bail—Forfeiture.
- 28. Conviction by Magistrate—Appeal—Security.
- 29. Record on Appeal—Trial de Novo—Reversal.
- 30. Proceedings Taken on Sundays and Holidays.
- 31. Complaints—Prosecutors—Bond for Costs.
- 32. Subdiv. 1. Arrest without Warrant—Proceedings.
 - 2. Production of License to Magistrate.
- 33. Process—Service—Arrest—Bail.
- 35. Penalties.
 - Subdiv. 1. Violation of Sections 15 and 21.
 - 2. Violation of Sections 15, 17, 19 or 20.
 - 3. Violation of Section 22, subdivision 4.
 - 4. Violation of Section 16.

- § 35. Subdiv. 5. Violation of Section 22, subdivision 3, or Section 23.
 - 6. Violation of Sections 3, 4, 6, 18, or 22, subdivision 1.
- 36. Subdiv. 1. Revocation of License by Magistrate—Appeal—Power of Commissioner.
 - 2. Review of Sentence or Penalty by Supreme Court.
- 39. Vehicles Deposited as Bail—Sale.
- 40. Invalidity of Any Provision Hereof—Effect on Other Sections.
- 41. Time of Taking Effect.
- 42. Jurisdiction of Magistrates in Cities.
- 43. Acts Repealed Hereby.

ACT OF APRIL 16, 1908.

- § 1. Act of 1906, § 4, Amended.
 - § 4, Par. 1. Lights—Display of Number.
- 2. Act of 1906, § 9, Amended.
 - § 9. Motor Vehicle Commissioner—Functions—Powers—Assistants.
- 3. Act of 1906, § 15, Amended—Carriers of Passengers—Interstate Commerce—Display of Number.
- 4. Act of 1906, § 16, Amended.
 - § 16. Subdiv. 1. Registration of Vehicles—Fees—Nonresidents.
 - 2. Motor Cycles—Fee—Qualifications of Operators.
 - 3. Carriers of Passengers—Interstate Traffic.
 - 4. Registration by Manufacturers and Dealers.
- 6. Act of 1906, § 21, Amended.
 - § 21. Display of Number—Mode—Tags.
- 7. Act of 1906, § 25, Amended.
 - § 25. Vehicles of Militia—Inspectors.
- 9. Act of 1906, § 38, Amended.
 - § 38. Warning Signs—Authority to Erect—Cost.
- 10. Time of Taking Effect.

ACT OF APRIL 16, 1909.

Driving Vehicle without Permission, While Intoxicated, in Race or on Wager, etc.—Penalty.

ACT OF APRIL 21, 1909.

- § 1. Act of 1906, § 4, Amended.
 - § 4. Subdiv. 1. Lights.
 - 2. Lights Displayed by Motor Cycles.
- 2. Act of 1906, § 7, Amended.
 - § 7. Equipment—Noise—Vapor—Sparks.

- § 3. Act of 1906, § 17, Amended.
 - § 17. Driver's License—Qualifications of Licensees—Production—Persons Learning to Drive.
- 4. Act of 1906, § 23, Amended.
 - § 23. Speed.
 - Subdiv. 1. At Curves, Corners and Crossways.
 - 2. In Cities, Towns or Villages.
 - 3. Passing Vehicles and Animals.
 - 4. Speed—General Considerations—Rate—Speedways—Stopping on Signal.
- 5. Act of 1906, § 34, Amended.
 - § 34. Costs in Prosecutions—Payment—Reversal.
- 6. Time of Taking Effect.

ACT OF APRIL 21, 1909.

- § 1. Nonresidents—Eight Day License—Service of Process on Secretary of State.
- 2. Regulations as to Operation.
- 3. Issuance of Licenses—Agencies—Record—Acts Repealed Hereby—Time of Taking Effect.

ACT OF APRIL 9, 1910.

- § 1. Act of 1906, § 6, Amended.
 - § 6. Use of Chains—Snow or Ice.
- 2. Acts Repealed—Time of Taking Effect.

ACT OF APRIL 9, 1910.

- § 1. Act of 1906, § 37, as Amended by Act of 1908, § 8, Amended.
 - § 37. Disposition of Fees and Fines.
- 2. Time of Taking Effect.

An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations.

[Act approved April 12, 1906; Laws 1906, c. 113.]

Be it enacted by the Senate and General Assembly of the State of New Jersey:

- § 1. [Definitions—"Motor Vehicle"—"Motor Cycle"—"Automobile"—"Magistrate"].—As used in this act:
 - (1) The term "motor vehicle" includes all vehicles propelled other-

wise than by muscular power, excepting such vehicles as run only upon rails or tracks.

(2) The term "motor cycle" includes only motor vehicles having pedals and saddle with driver sitting astride.

(3) The term "automobile" includes all motor vehicles excepting motor cycles.

(4) The word "magistrate" shall be deemed and understood to mean and include all justices of the peace, judges of the city criminal courts, police justices, recorders, mayors and all other officers having the power of a committing magistrate.

§ 2. [*Fire Engines, Road Rollers and Traction Engines*].—Automobile fire engines and such self-propelling vehicles as are used neither for the conveyance of persons for hire, pleasure or business, nor for the transportation of freight, such as steam road rollers and traction engines, are excepted from the provisions of this act.

§ 3. [*Signaling Device*].—Every motor vehicle must be equipped with a plainly audible signal trumpet.

§ 4. [Superseded by Act of April 21, 1909.]

§ 5. [*Brakes*].—Automobiles of more than ten horse-power shall be provided with at least two brakes, powerful in action and separated from each other, of which one brake must act directly on the drive wheels or on the parts of the mechanism which are firmly connected with the wheels. Each of the two brakes must suffice alone to stop the automobile within a proper time. One of the two brakes must be so arranged as to be operated with the foot; provided, however, that on automobiles not exceeding ten horse-power one brake will be sufficient. Motor cycles shall be provided with at least one brake, which may be operated by hand.

§ 6. [Superseded by Act of April 9, 1910.]

§ 7. [Superseded by Act of April 21, 1909.]

§ 8. [*Motor Vehicle Department—Quarters—Disbursements*].—The Secretary of State shall forthwith organize in connection with the department of state the department of motor vehicle registration and regulation. He shall provide suitable quarters for the same and shall furnish all necessary supplies and equipment for the proper enforcement of the provisions of this act. He shall approve all bills for disbursements of money under any of the provisions of this act, which shall be paid by the State Treasurer, upon the warrant of the Comptroller out of any appropriation regularly made therefor.

§ 9. [Superseded by Act of April 16, 1908.]

§ 10. [*Registration of Vehicles—Authority of Officials Respecting*].—The commissioner of motor vehicles shall be authorized, and full power and authority are hereby given to him, to designate the chief of police and the lawful deputy of said chief of police of any

municipality in this state, or any other proper person, to be the agent of the said commissioner of motor vehicles, for the registering of motor vehicles and issuing registration certificates, and for the examining of applicants for licenses to drive motor vehicles, and the granting of licenses to said applicants, subject to the requirements of this act and to such rules and regulations as shall be imposed by the commissioner; and any chief of police and deputy who may be so designated are hereby authorized and required to act according and until the said authority so to act is revoked by the said commissioner. The fee allowed such agent for registration certificates so issued by him, and for every license so granted by him, shall be fixed by the inspector of motor vehicles, the same to be retained from the registration fee or the license fee paid to him; provided, however, that every registration and registration certificate and every license to drive motor vehicles may be revoked by the said commissioner of motor vehicles for a violation of any of the provisions of this act, or on other reasonable grounds, after due notice in writing of such proposed revocation and the ground thereof, and if a driver of motor vehicles shall have had his license revoked, a new license granted to him within one year thereafter shall be void and of no effect unless it shall be granted by the said commissioner of motor vehicles in person; and if the registration or registration certificate of any motor vehicle shall have been revoked, a new registration made or new registration certificate issued within one year thereafter shall be void and of no effect unless the new registration shall be made and the new certificate issued under the personal direction of the commissioner of motor vehicles.

§ 11. [*Powers of Commissioner—Licensing and Registration*].—The commissioner of motor vehicles shall be authorized, and full power and authority are hereby given to him, to license, at his discretion and upon payment of the lawful fee, any proper person of the age of sixteen years or over to be a motor-vehicle driver, said commissioner or his agent having first examined said person and being satisfied of his ability as an operator, which examination shall include a test of the knowledge on the part of the said person of such portions of the mechanism of motor vehicles as is necessary, in order to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant, and the said applicant having demonstrated his ability to operate a vehicle of the class designated; and the said commissioner of motor vehicles may, in his discretion, refuse to grant a license to drive motor vehicles to any person who shall, in the estimation of said commissioner, be an improper person to be granted such a license; and the said commissioner shall have power to grant a registration certificate to the owner of any motor vehicle, application for registra-

tion having properly been made and the fee therefor paid, and the vehicle being of a type that complies with the requirements of this act. But it shall be lawful for the said commissioner of motor vehicles to refuse registration to any vehicle that, in his estimation, is not a proper vehicle to be used upon public roads and highways of this state.

§ 12. [*Powers and Duties of Commissioner—Collection of Data—Reports—Enforcement of Act*].—The commissioner of motor vehicles shall have such powers and duties as are in this act given and imposed, and shall collect such data with respect to the proper restrictions to be laid upon motor vehicles, and the use thereof upon the public roads, turnpikes and thoroughfares, as shall seem to be for the public good, and under the direction of the Secretary of State shall report to each legislature the operations of his office for the year ending on the next preceding thirty-first day of December. It shall be his duty to attend to the enforcement of the provisions of this act.

§ 13. [*Records of Commissioner—Copies*].—The commissioner of motor vehicles shall keep a record of all his official acts and shall preserve copies of all decisions, rules and orders made by him and shall adopt an official seal. Copies of any act, rule, order or decision made by him, and of any paper or papers filed in his office, may be authenticated under said seal, and when so authenticated shall be evidence equally with and in like manner as the originals, and said commissioner shall be empowered to communicate with the police departments and peace officers in the state for the purpose of and with the object of the proper enforcement of this act.

§ 14. [*Inspectors of Vehicles—Powers—Arrest Without Warrant*].—Motor vehicle inspectors may be appointed, as provided in section nine of this act, and shall be presented with a badge indicative of their office, and when wearing such badge on the left breast of the outermost garment shall have power to stop any motor vehicle and examine the same to see that it complies with the requirements of this act, whether in matter of equipment, identification or otherwise; to require the production of the license of the driver; to arrest, without warrant, for violations of this act committed in their presence, and generally to act as special officers for the enforcement of the provisions of this act and for the detection and arrest of those who violate or infringe upon the provisions hereof.

§ 15. [*Driving Unregistered Vehicle—Other or Fictitious Numbers*].—No person shall drive a motor vehicle, the owner of which vehicle shall not have complied with the provisions of this act concerning the proper registration and identification of the same; nor shall any person drive a motor vehicle which shall display on the front or back thereof a fictitious number, or a number other than that

designated for such motor vehicle in the New Jersey registration certificate of such motor vehicle.

§ 16. [Superseded by Act of April 16, 1908.]

§ 17. [Superseded by Act of April 21, 1909.]

§ 18. [*Driver's License—Contents—Production*].—Each license to drive an automobile shall specify the maximum horse-power of the automobile allowed to be driven thereunder, and shall have endorsed thereon in the proper handwriting of the licensee the name of the said licensee. And said licensee when thereupon requested by any motor vehicle inspector or magistrate, while in the performance of the duties of his office under this act, shall exhibit said license to said officer and write his name in the presence of said officer, to the end that he may thereby determine the identity of said licensee.

§ 19. [*Driving While Intoxicated*].—No intoxicated person shall drive a motor vehicle.

§ 20. [*Driving Without Owner's Consent*].—No person shall drive a motor vehicle without the consent of the owner.

§ 21. [Superseded by Act of April 16, 1908.]

§ 22. Subdiv. 1. [*Rules of Road—Meeting and Overtaking*].—Drivers of motor vehicles, whether of burthen or of pleasure, using any of the turnpikes or public roads in this state, when met by another motor vehicle, or by a carriage, sleigh, or sled, shall keep to the right, and when overtaken by another motor vehicle, carriage, sleigh or sled they shall likewise keep to the right, so as and when overtaken by another motor vehicle, carriage, sleigh or sled, either met or overtaken, to pass uninterrupted.

Subdiv. 2. [*Local Regulations—Speedways—Parks*].—No owner or purchaser or driver of a motor vehicle who shall have complied with the requirements and provisions of this act shall be required to obtain any other license or permit to use or operate the same, nor shall such owner or purchaser or driver be excluded or prohibited from or limited in the free use thereof, nor limited as to speed upon any public street, avenue, road, turnpike, driveway, parkway or other public place, at any time, when the same is or may hereafter be opened to the use of persons having or using other carriages, nor be required to comply with other provisions or conditions as to the use of said motor vehicle, except as in this act provided; provided, however, that nothing in this section contained shall be construed to apply to or include any speedway created and maintained in pursuance of an act of the Legislature of the state of New Jersey entitled "An Act to provide for the construction and maintenance of speedways in the counties of this state," approved March nineteenth, one thousand nine hundred and two; nor to any parks or parkways created and maintained in accordance with an act of the Legislature of the state of

New Jersey entitled "An act to establish public parks in the counties of this state and to provide for the acquirement, improvement and regulation of the same," approved March twentieth, one thousand nine hundred and one. No city, town, township, borough or other municipality shall have power to make any ordinance, by-law or resolution limiting or restricting the use or speed of motor vehicles, and no ordinance, by-law or resolution heretofore or hereafter made by any city, town, township, borough or other municipality or local authority by whatever name known or designated in respect to or limiting the use or speed of motor vehicles shall have any force, effect or validity.

Subdiv. 3. [*Driving in Race or on Bet*].—No person shall drive a motor vehicle upon any public street, public highway, public road, public parkway, turnpike or public driveway in this state in a race or on a bet or wager.

Subdiv. 4. [*Accident—Stopping and Disclosing Identity*].—Every driver of a motor vehicle after knowingly causing an accident by collision or otherwise knowingly injuring any person, horse or vehicle shall forthwith bring his motor vehicle to a full stop, return to the scene of accident and give to any proper person demanding the same his name, the number of his driver's license and the registration number of the motor vehicle, and the names and residences of each and every male occupant of said motor vehicle.

§ 23. [Superseded by Act of April 21, 1909.]

§ 24. [*Physicians—Speeding*].—If a physician shall have his motor vehicle stopped for exceeding the speed limit while he is in the act of responding to an emergency call, the registration number of the vehicle and the driver's license number may be inspected and noted, and the physician shall then be allowed to proceed in the vehicle to his destination, and subsequently such proceedings may be taken as would have been proper had the person violating the provisions as to speed not been a physician.

§ 25. [Superseded by Act of April 16, 1908.]

§ 26. Subdiv. 1. [*Prosecutions—Process—Trial*].—A complaint having been made in writing and duly verified, that any person has violated any of the provisions of this act, any magistrate of the county, or recorder or police magistrate of any municipality, in which the offense is committed may, within thirty days after the commission of said offense, issue either a summons or a warrant directed to any constable, police officer, the inspector of motor vehicles or the commissioner of motor vehicles of this state, for the appearance or arrest of the person so charged; and the magistrate shall state what section or provision of this act has been violated by the defendant, and the time, place, and nature of said violation, and upon the return

of said summons or warrant the said magistrate shall proceed, in a summary way, to hear and determine the guilt or innocence of such person, and upon conviction, may impose upon the person so convicted the penalty, by this act prescribed, together with the costs of prosecution for such offense.

Subdiv. 2. [*Prosecution of Corporations*].—Such magistrate, upon receiving complaint in writing, duly verified, of the violation of any provision of this act by any corporation, is hereby authorized and required to issue a summons directed to any constable, police officer, the inspector of motor vehicles, or the commissioner of motor vehicles, of this state, requiring such corporation to be and appear before said magistrate on a day therein named, to answer to said complaint, which said summons shall be served on the president, vice-president, secretary, superintendent or manager of such corporation, or the agent upon whom other process against it may be served, at least five days before the time of appearance mentioned therein, and thereafter all proceedings shall be the same as against individuals, except where a different procedure is provided by this act.

§ 27. [*Trial—Adjournment—Bail—Forfeiture*].—Any hearing to be held pursuant to this act shall, on the request of the defendant, be adjourned for a period not exceeding thirty days from the return day named in any summons, or from the return of any warrant, or from the date of any arrest without warrant, as the case may be, but in such case it shall be the duty of the magistrate to detain the defendant in safe custody, unless he shall make a cash deposit or enter into a bond to the State of New Jersey, with at least one sufficient surety (unless said defendant shall himself qualify and justify, in real estate security situate in this state, in twice the amount fixed by said magistrate for bond with a surety), to or in an amount not exceeding five hundred dollars, conditioned for his appearance on the day to which the hearing may be adjourned, and thence from day to day, until the case is disposed of; and such bond, if forfeited, may be prosecuted by the commissioner of motor vehicles in any court of competent jurisdiction; and such cash deposit, if forfeited, shall be paid to said commissioner of motor vehicles by said magistrate with whom the same shall have been deposited, to be by said commissioner disposed of as are other moneys coming to his hands under the provisions of section thirty-seven of this act; provided, however, that in lieu of said bond or cash deposit the person under arrest may leave with the magistrate the motor vehicle owned or driven by the said person.

§ 28. [*Conviction by Magistrate—Appeal—Security*].—The defendant in any proceeding instituted under this act may appeal from the judgment or sentence of the magistrate to the Court of Common Pleas of the county in which such proceeding shall have taken place;

provided, the said defendant shall, within ten days after the date of said judgment, deliver to the magistrate a bond to the State of New Jersey, with at least one sufficient surety, or make a cash deposit with him of such amount as the magistrate shall direct, not exceeding the amount of five hundred dollars (unless said defendant can himself qualify and justify in real estate security in this state in twice said amount), conditioned to stand to and abide by such further order or judgment as may thereafter be made against the said party; and provided further, that if the said magistrate shall have imposed a sentence of imprisonment, the defendant, if he does not duly appeal, shall be imprisoned forthwith upon the imposing of said sentence; but that an appeal, properly taken in accordance with the provisions of this act, shall be a stay of and upon the enforcement of a sentence of imprisonment, whether the execution of such sentence shall have been entered upon or not, as well as of such other judgment as may be pronounced; and provided further, that in lieu of the appeal bond in this section specified, and of the cash deposit therein provided for, the defendant may leave with the magistrate the motor vehicle owned or operated by the said defendant; and provided further, that if said defendant shall, after the rendition of said judgment or sentence, announce to said magistrate his intention to appeal therefrom, and either give the bond, make the deposit or leave the motor vehicle as herein provided, he shall have ten days from the date of the rendition of said judgment or sentence within which to complete his appeal, during which said ten days the execution of whatever sentence or judgment shall have been rendered, whether of imprisonment or fine, shall be stayed, and in case said defendant shall fail to complete his appeal within said ten days, the like proceedings may be had as would by the provisions of this act follow an appeal taken and a judgment of affirmance thereupon.

§ 29. [*Record on Appeal—Trial de Novo—Reversal*].—Whenever an appeal shall be taken as aforesaid it shall be the duty of the magistrate to send all papers and all money, if any, deposited according to the provisions of this act, and all money paid for costs of prosecution, together with a transcript of the proceedings in the case, to the next Court of Common Pleas, of the said county, which court shall, *de novo*, and in a summary way, try and determine all such appeals, and in case the judgment or sentence of the magistrate shall be reversed on such appeal, the said Common Pleas Court shall order the return of all money deposited as aforesaid, and all costs of prosecution paid by said defendant, to said defendant.

§ 30. [*Proceedings Taken on Sundays and Holidays*].—Proceedings under this act may be instituted on any day of the week, and the institution of such proceedings on Sunday shall be no bar to the suc-

cessful prosecution of the same; and any process served on Sunday shall be as valid as if served on any other day of the week.

§ 31. [*Complaints—Prosecutors—Bond for Costs*].—All proceedings for the violation of the provisions of this act shall be entitled and shall run in the name of the State of New Jersey, with the commissioner of motor vehicles or a motor vehicle inspector, or a police officer, or a constable, or such other person as shall by complaint institute the proceedings as prosecutor; and any magistrate may, at his discretion, refuse to issue a warrant on the complaint of any person other than the commissioner of motor vehicles or a motor vehicle inspector, until a sufficient bond to secure costs shall have been executed and delivered to the said magistrate.

§ 32. Subdiv. 1. [*Arrest without Warrant—Proceedings*].—Any constable, or police officer, or motor vehicle inspector or the commissioner of motor vehicles is hereby authorized to arrest without warrant any person violating in the presence of such constable, or police officer or motor vehicle inspector or the commissioner of motor vehicles any of the provisions of this act, and to bring the defendant before any magistrate of the county where such offense is committed. The person so offending shall be detained in the office of the magistrate until the officer making such arrest shall make oath or affirmation, which he shall do forthwith, declaring that the person under arrest has violated one or more of the provisions of this act, and specifying the provision or provisions violated, whereupon said magistrate shall issue a warrant returnable forthwith, and the said magistrate shall proceed summarily to hear or postpone the case as provided in sections twenty-six and twenty-seven of this act.

Subdiv. 2. [*Production of License to Magistrate*].—Any person arrested for a violation of any of the provisions of this act shall, upon demand of the magistrate hearing the complaint against said person, produce his license for inspection, and if said person shall fail to produce his license, or to give a satisfactory excuse for its non-production, he shall, in addition to any other penalties imposed by said magistrate, be subject to a fine of not more than twenty-five dollars.

§ 33. [*Process—Service—Arrest—Bail*].—A summons or warrant issued by any magistrate in accordance with the provisions of this act shall be valid throughout the state, and any officer who has power to serve the said summons, or to serve said warrant and make arrest thereon in the county where the same shall have been issued, shall have like power to serve said summons and to serve said warrant and make arrest thereon in any of the several counties of the state. If any person shall be arrested for a violation committed in the county other than that in which the arrest shall take place, the person so arrested

may demand to be taken before a magistrate of the county in which the arrest may have been made for the purpose of making a cash deposit or of entering into a recognizance with sufficient surety; whereupon the officer serving the said warrant shall take the person so apprehended before a magistrate of the county in which the arrest shall have been made, who shall thereupon fix a day for the matter to be heard before the magistrate issuing the said warrant, and shall take from the person apprehended a cash deposit or recognizance to the State of New Jersey with sufficient surety or sureties for the appearance of the said person at the time and place designated in accordance with the provisions of section twenty-seven of this act; the cash deposit or recognizance so taken shall be returned to the magistrate issuing the warrant, to be retained and disposed of by him as by this act provided.

§ 34. [Superseded by Act of April 21, 1909.]

§ 35. [Penalties].—Subdiv. 1. [*Violation of Sections 15 and 21*].—Any person who shall be convicted of violating the provisions of sections fifteen and twenty-one of this act shall be subject to a fine not exceeding one hundred dollars; in default of the payment of such fine there shall be imposed an imprisonment in the county jail for a period not exceeding ten days; provided, that any offender who shall be convicted of a second offense of the same violation may be fined in double the amount herein prescribed for the first offense, and may, in default of the payment thereof, be punished by imprisonment in the county jail for a period not exceeding twenty days; provided, further, that the penalties above prescribed shall not apply to the display of a fictitious number.

Subdiv. 2. [*Violation of Sections 15, 17, 19, or 20*].—Any person convicted of displaying a fictitious number as prohibited by section fifteen, or of violating the provisions of sections seventeen, nineteen or twenty of this act, shall be subject to a fine not exceeding five hundred dollars, or to imprisonment in the county jail for a period not exceeding sixty days.

Subdiv. 3. [*Violation of Section 22, Subdivision 4*].—Any person who shall be convicted of a violation of subdivision four of section twenty-two of this act, shall be subject to a fine not exceeding two hundred and fifty dollars, or to imprisonment in the county jail for a period not exceeding thirty days.

Subdiv. 4. [*Violation of Section 16*].—Any person who shall be convicted of the violation of section sixteen of this act shall be subject to a fine not exceeding one hundred dollars.

Subdiv. 5. [*Violation of Section 22, Subdivision 3, or Section 23*].—Any person who shall be convicted of the violation of subdivision

three of section twenty-two, or of section twenty-three of this act, shall for the first offense be subject to a fine not exceeding one hundred dollars; in default of the payment of such fine there shall be imposed an imprisonment in the county jail for a period not exceeding ten days; provided, that any offender who shall be convicted of a second or any subsequent offense of the same violation may be fined in double the amount herein prescribed for the first offense, or imprisoned in the county jail for a period not exceeding twenty days, and in addition to such penalties the license of said offender shall be revoked; provided further, that nothing herein contained shall prevent a revocation of license for the first offense, or for the violation of any other provision of this act.

Subdiv. 6. [*Violation of Sections 3, 4, 6, 18, or 22, Subdivision 1*].—Any person who shall be convicted of violating any of the following-named provisions of this act shall be subject to the penalties herein specified:

Of sections three, four or eighteen, a fine not exceeding ten dollars.

Of section six, a fine not exceeding fifty dollars.

Of subdivision one of section twenty-two, a fine not exceeding twenty-five dollars.

§ 36. Subdiv. 1. [*Revocation of License by Magistrate—Appeal—Power of Commissioner*].—It shall be lawful for a magistrate before whom any hearing under this act shall be had, to revoke the license of any person to drive motor vehicles when such person shall have been guilty of such willful violation of the provisions of this act as shall in the discretion of the said magistrate justify such revocation, but an appeal of the matter to the Court of Common Pleas shall act as a stay upon the said revocation, and the Court of Common Pleas upon the appeal of the said matter shall have the power to void the said revocation; and the commissioner of motor vehicles shall at all times have the power to validate a license that has been revoked, or to grant a new license to any person whose license to drive motor vehicles shall have been revoked.

Subdiv. 2. [*Review of Sentence or Penalty by Supreme Court*].—It shall be lawful for the justice of the Supreme Court holding the circuit in each of the counties of this state, upon application made to him by a verified petition for that purpose by any person against whom a judgment or sentence for the violation of any of the provisions of this act shall have been rendered, who may desire to have the legality of his conviction reviewed or the reasonableness of the sentence or penalty imposed, to order the said complaint, process, proceedings, evidence and record of conviction to be forthwith brought before him, that the legality of such proceedings and sentence, or

judgment, or the reasonableness of the sentence or penalty may be summarily reviewed and determined; and if such proceedings and sentence or judgment shall thereupon be found to be illegal, or the sentence or penalty be unreasonable, forthwith to set aside the same and to order the remission or reduction of any fine and costs that may have been imposed or the discharge of any offender from custody.

§ 37. [Superseded by Act of April 16, 1908, § 8.]

§ 38. [Superseded by Act of April 16, 1908.]

§ 39. [*Vehicles Deposited as Bail—Sale*].—When any motor vehicle shall have been deposited under this act in lieu of bond, the said motor vehicle shall be held the property of the State of New Jersey, subject to the same conditions as would govern the bond under like circumstances, and may be redeemed by the person depositing the same upon delivery of the requisite bond or upon paying such fine and submitting to such penalty as may be imposed; and unless the motor vehicle so deposited in lieu of bond shall be redeemed within ten days next following the date of the final determination of the matter, it shall be lawful for the commissioner of motor vehicles to sell the same at public auction and apply the net proceeds of said sale (the expenses of the matter having been deducted) as set forth in section thirty-seven hereof.

§ 40. [*Invalidity of Any Provision Hereof—Effect on Other Sections*].—In case for any reason any section or any provision of this act shall be questioned in any court, and shall be held to be unconstitutional or invalid, the same shall not be held to affect any other section or provision of this act.

§ 41. [*Time of Taking Effect*].—This act shall take effect on July first, one thousand nine hundred and six; provided, however, that the organization of the department of motor vehicle registration and regulation shall be effected forthwith, and the registration of motor vehicles and licensing of drivers hereunder may be permitted for the convenience of owners and drivers of motor vehicles at such date earlier than the said July first, one thousand nine hundred and six, as the commissioner of motor vehicles may designate.

§ 42. [*Jurisdiction of Magistrates in Cities*].—Nothing in this act shall be construed to give jurisdiction to justices of the peace in any city having a police justice or recorder's court.

§ 43. [*Acts Repealed Hereby*].—All acts and parts of acts contrary to and inconsistent herewith are hereby repealed.

An Act to amend an act entitled "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; pre-

scribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations;" approved April twelfth, one thousand nine hundred and six.

[Act approved April 16, 1908; Laws 1908, c. 304.]

Be it enacted by the Senate and General Assembly of the State of New Jersey:

§ 1. [*Act of 1906, § 4, Amended*].—Paragraph one of section four of the act of which this is an amendment shall be amended to read as follows:

§ 4. Par. 1. [*Lights—Display of Number*].—Every automobile shall carry, during the period from thirty minutes after sunset to thirty minutes before sunrise, and whenever fog renders it impossible to see a long distance, at least two lighted lamps, showing white lights, visible at least two hundred and fifty feet in the direction toward which said automobile is proceeding, and shall also exhibit one red light, visible in the reverse direction. Upon the fronts of the two aforesaid lamps showing white lights shall be displayed, in such manner as to be plainly visible when such lamps are lighted, the number of the registration certificate issued as in this act provided, the same to be in Arabic numerals not less than one inch in height. [Compare Act of April 21, 1909, § 1.]

§ 2. [*Act of 1906, § 9, Amended*].—Section nine of the act of which this is an amendment shall be amended to read as follows:

§ 9. [*Motor Vehicle Commissioner—Functions—Powers—Assistants*].—The assistant secretary of state shall be ex officio commissioner of motor vehicles, and shall have personal charge and supervision of the enforcement of the provisions of this act. The commissioner of motor vehicles shall appoint a chief inspector of motor vehicles, who shall be chief clerk of the department, and who shall have practical knowledge of the mechanical arrangement and capabilities of all kinds of motor vehicles, and be capable to pass upon the efficiency of motor vehicles and the competency of motor vehicle drivers. The commissioner of motor vehicles shall also appoint as many inspectors not exceeding ten, as may be necessary, in detecting violations of this act, in obtaining evidence of violations and otherwise assisting in the enforcement of the act. The said inspectors shall be chosen with especial reference to their fitness for the work, and shall be required to submit themselves to such an examination as the commissioner of motor vehicles shall provide, and shall be equipped, at his discretion, with motorcycles or other means of conveyance. The commissioner of motor vehicles shall organize the inspector force with the chief inspec-

tor at its head, and shall adopt such rules and regulations for the regulation of the inspector force as shall appear desirable, and shall exercise the power of suspension, and when necessary, of discharging of inspectors for failure to comply with the rules of the department, or for any other cause. He shall fix the compensation of these inspectors, but in no case shall such compensation exceed three dollars per day. The commissioner of motor vehicles shall also have the power to appoint any number of citizens, not exceeding twenty, who shall be interested in the proper enforcement of this act, and who shall be known as special inspectors, not more than two of whom shall be residents of any one county. They shall serve without pay, and shall have all the power and authority of the paid inspectors as stated in this act. The commissioner of motor vehicles shall also fix the compensation of clerical assistants and others employed under this act. The compensation of the commissioner of motor vehicles shall be fifteen hundred dollars per annum, in addition to any compensation he may receive by reason of any statute fixing the compensation of assistant secretary of state, and that of the chief inspector shall be fifteen hundred dollars per annum.

§ 3. [*Act of 1906, § 15, Amended—Carriers of Passengers—Interstate Commerce—Display of Number*].—Section fifteen of the act of which this is an amendment shall be amended by adding thereto the following: This section shall not apply to the owners or drivers of automobiles licensed pursuant to subdivision three of section sixteen of this act, but such automobiles licensed under said section shall at all times display on the back thereof the registration number of said automobile under the laws of the state in which the business of the owner shall be conducted, as provided in the said section, and no other number shall be required or shall be displayed upon the said automobile.

§ 4. [*Act of 1906, § 16, Amended*].—Section sixteen of the act of which this is an amendment shall read as follows:

§ 16. Subdiv. 1. [*Registration of Vehicles—Fees—Nonresidents*].—Every resident of this state and every nonresident, whose automobile shall be driven in this state, shall, before using such vehicle on the public highways, register the same, and no motor vehicle shall be driven unless so registered. Every registration shall expire and the certificate thereof become void on the thirty-first of December of each year; provided, it may be lawful for any automobile duly registered, to operate under said registration certificate for a period not exceeding thirty-one days after the expiration of said registration certificate. Such registration shall be made in the following manner: A statement in writing shall be made to the commissioner of motor vehicles,

or his lawful agent, containing the name and address of such owner, together with a brief description of the character of such automobile, including the name of the maker and the manufacturer's number, and the rated horse-power. The applicant shall pay to the commissioner of motor vehicles for each registration, a fee of three dollars for automobiles of the first class; five dollars for the second class; and ten dollars for the third class. Automobiles of ten horse-power or less, shall be of the first class; from eleven to twenty-nine horse-power, inclusive, of the second class; and of thirty horse-power or more, of the third class. The commissioner of motor vehicles shall issue for each automobile so registered a certificate properly numbered, stating that such automobile is registered in accordance with law, and shall cause the name of such owner with his address and the number of his certificate and description of such automobile, to be entered on the records of his department in alphabetical and numerical order. The commissioner of motor vehicles may refuse registration in the case of any automobile that shall not comply with the requirements of this act or that shall seem to him unsuitable for use on the roads and highways of this state. Each owner having a residence outside of the state shall file with the secretary of state a duly executed instrument, constituting the secretary of state and his successors in office the true and lawful attorney upon whom all original process in any action or legal proceeding caused by the operation of his registered motor vehicle, within this state, against such owner may be served, and therein shall agree that any original process against such owner shall be of the same force and effect as if served on such owner within this state; the service of such process shall be made by leaving a copy of the same in the office of the secretary of state with a service fee of two dollars to be taxed on the plaintiff's costs of suit. Said commissioner of motor vehicles shall forthwith notify such owner of such service by letter directed to him at the post-office address stated in his application. Upon any and every transfer of a registered automobile by the owner thereof, in whose name the same is registered, the said registration and certificate thereof shall forthwith be and become void; but the same may be validated by the endorsement of the commissioner of motor vehicles, the purchaser having made written application therefor and paid a transfer fee of one dollar.

Subdiv. 2. [*Motorcycles—Fee—Qualifications of Operators*].—Every resident who is the owner of a motorcycle, and every nonresident whose motorcycle shall be driven in this state, shall pay an annual registration or license fee of two dollars for such motorcycle, which shall include the right of such person to drive such motorcycle within this state without an examination of his ability to run a motorcycle, unless such an examination be required by the commissioner of motor

vehicles; and such owner shall be given a registration certificate, in which shall be designated the proper registration number, and such certificate shall expire on the thirty-first of December of each year unless revoked by the commissioner of motor vehicles, or as otherwise provided by this act.

Subdiv. 3. [*Carriers of Passengers—Interstate Traffic*].—Every person or corporation regularly engaged in the business of carrying passengers for hire by means of automobiles, which business shall be conducted in a state adjoining the State of New Jersey, and the conduct of which business shall require such automobile to enter the State of New Jersey for said purposes, shall make application, which application shall be in the form of a sworn statement, signed and sworn to by the applicant, or if the said applicant be a corporation, by an officer of the said corporation, and shall specify the number of automobiles which shall be operated in connection with the said business, the type and motive power of each, and the registration number of each under the laws of the adjoining state in which said business shall be connected, the commissioner of motor vehicles shall issue to the said applicant, upon the payment of a fee of one hundred dollars, a registration certificate, which shall have endorsed thereon the type and state registration number of each of the said automobiles, and which shall permit the said automobiles to be operated within the State of New Jersey for a distance of not to exceed fifteen miles from the point of entry into the state; provided, however, that not more than fifteen of the said automobiles shall be within the State of New Jersey at any one time, and that no automobile shall be included under the provisions of such registration certificate unless the same is duly registered and licensed under the laws of the state in which such business is being conducted.

Subdiv. 4. [*Registration by Manufacturers and Dealers*].—Every manufacturer of or dealer in automobiles residing and having his principal place of business within this state, instead of registering each automobile owned or controlled by him, may make application, as hereinbefore provided in this section, for a registration number, and the written statement, in addition to the matters hereinbefore contained, shall state that he is a manufacturer or dealer, as the case may be; that he desires to use a single number on automobiles owned or controlled by him while being used for demonstrating purposes. The commissioner of motor vehicles may thereupon, if satisfied of the facts stated in said application, issue a certificate as herein set forth assigning the same a number, which certificate shall contain a statement that the same is issued to the applicant as a manufacturer or dealer, as the case may be. One certificate shall cover and be valid for the use of not more than five automobiles of said manu-

facturer or dealer at one time while under his control. The commissioner of motor vehicles shall provide five sets of identification marks of the general style and kind hereinafter provided for motor vehicle registrations, and such identification marks shall not be used on any vehicle not actually owned by said manufacturer or dealer or operated either by him or his duly authorized agent. All such automobiles shall be regarded as registered under such general number, and in addition to the registration number displayed on the front and rear of the car as hereafter provided, there shall be added the letter "M" of equal size and prominence. The annual fee for such manufacturer's or dealer's registrations shall be five dollars for each car so authorized to be operated under such registration number, and the commissioner of motor vehicles shall issue registration certificates in duplicate equal to the number of cars not exceeding five authorized to be operated under said registration number.

§ 5. [Superseded by Act of April 21, 1909, § 3.]

§ 6. [*Act of 1906, § 21, Amended*].—Amend section twenty-one of the act of which this is an amendment, so that it shall read as follows:

§ 21. [*Display of Number—Mode—Tags*].—The owner of every automobile which shall be driven on the public highways of this state shall display on the front and rear of such vehicle, not less than fifteen inches or more than thirty-six inches from the ground an identification mark to be furnished by the motor vehicle department; provided, that the said motor vehicle department shall not be required to furnish such identification mark to any motor vehicle already registered, prior to June first; and such motor vehicle so registered shall be permitted to display any identification mark lawful at the time of the passage of this act prior to said June first. Said identification mark shall contain the number of the registration certificate of said vehicle in characters not less than four inches in height with a stroke of not less than one-half an inch, and shall be of such design as shall be prescribed by the commissioner of motor vehicles. On the tag shall be, in smaller characters, the manufacturer's number of the car, certified by the commissioner of motor vehicles. The identification marks of vehicles shall be either of metal or leather, sufficiently enduring to be plainly legible under all atmospheric conditions for at least one year. Motorcycles shall also display such identification marks on the front and side thereof as the commissioner of motor vehicles shall prescribe. All identification marks shall be kept clear and distinct and free from grease, dust, or other blurring matter, so as to be plainly visible at all times during daylight and night.

§ 7. [*Act of 1906, § 25, Amended*].—Amend section twenty-five of the act of which this is an amendment, so that it shall read as follows:

§ 25. [*Vehicles of Militia—Inspectors*].—Motor vehicles belonging to the military establishment, while in use for official purposes in time of riot, insurrection, or invasion, and motor vehicle inspectors appointed under this act, are exempt from the provisions of this act pertaining to speed.

§ 8. [Superseded by Act of April 9, 1910, c. 225.]

§ 9. [*Act of 1906, § 38, Amended*].—Amend section thirty-eight of the act of which this is an amendment, so that it shall read as follows:

§ 38. [*Warning Signs—Authority to Erect—Cost*].—The commissioner of public roads shall be authorized and full power and authority are hereby given to him to have erected at such points throughout the state as to him shall seem necessary, cautionary warnings of dangerous crossings, steep declivities or other irregularities or perils of the roadway, at a cost, however, not to exceed in the aggregate one thousand dollars per annum.

§ 10. [*Time of Taking Effect*].—This act shall take effect immediately.

A Further Supplement to an act entitled "An Act for the punishment of crimes" (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight.

[Act approved April 16, 1909; Laws 1909, c. 127.]

Be it enacted by the Senate and General Assembly of the State of New Jersey:

[*Driving Vehicle Without Permission, While Intoxicated, in Race or on Wager, etc.—Penalty*].—Any person who shall drive a motor vehicle without the positive consent of the owner thereof, any person who shall drive a motor vehicle while in an intoxicated condition, any person who shall drive a motor vehicle for any bet or wager or for the purpose of breaking any speed record theretofore made, any person who shall drive a motor vehicle after his license so to drive has been revoked, any person who shall wilfully fail to display proper registration or identification marks (as required by the provisions of an act entitled "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations") approved April sixteenth, one thousand nine hundred and eight, or any person who shall falsely display a registration or identification mark, shall be guilty of a misdemeanor.

An Act to amend an act entitled "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations," approved April twelfth, one thousand nine hundred and six,

[Act approved April 21, 1909; Laws 1909, c. 257.]

Be it enacted by the Senate and General Assembly of the State of New Jersey:

§ 1. [*Act of 1906, § 4, Amended*].—Section four of the act of which this is an amendment shall be amended to read as follows:

§ 4. Subdiv. 1. [*Lights*].—Every automobile shall carry, during the period from thirty minutes after sunset to thirty minutes before sunrise, and whenever fog renders it impossible to see a long distance, at least two lighted lamps, showing white lights, visible at least two hundred and fifty feet in the direction towards which said automobile is proceeding, and shall exhibit one red light, visible in the reverse direction.

Subdiv. 2. [*Lights Displayed by Motor Cycles*].—Every motor cycle shall carry, during the period from one hour after sunset to one hour before sunrise, and whenever fog renders it impossible to see a long distance, at least one lighted lamp, showing a white light visible at least two hundred feet in the direction toward which the motor cycle is proceeding.

§ 2. [*Act of 1906, § 7, Amended*].—Section seven of the act of which this is an amendment shall be amended to read as follows:

§ 7. [*Equipment—Noise—Vapor—Sparks*].—Every motor vehicle must have devices to prevent excessive noise, annoying smoke and the escape of gas and steam, as well as the falling out of embers or residue from the fuel; and all exhaust pipes carrying exhaust gases from the engine shall be directed parallel to the ground or slightly upward.

§ 3. [*Act of 1906, § 17, Amended*].—Section seventeen of the act of which this is an amendment shall be amended to read as follows:

§ 17. [*Driver's License—Qualifications of Licensees—Production—Persons Learning to Drive*].—No person shall hereafter drive an automobile upon any public highway in this state unless licensed to do so in accordance with the provisions of this act. No person under the age of sixteen years shall be licensed to drive automobiles, nor shall any person be licensed to drive automobiles until said person shall have passed a satisfactory examination as to his ability as an

operator, which examination shall include a test of the knowledge on the part of said person of such portions of the mechanism of automobiles as is necessary in order to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant. Drivers' license certificates shall expire on the thirty-first of December of each year. Said licensee shall be entitled to drive any registered automobile of the horsepower or of a lesser horsepower than that for which he is licensed, but not greater. There shall be two classes of drivers' licenses. Those authorizing the licensee to drive cars of less than thirty horsepower shall be of the first class and those authorizing the licensee to drive cars of thirty and greater horsepower shall be of the second class. The annual license fee to be charged shall be two dollars for drivers of the first class, and four dollars for drivers of the second class. If an automobile has more than one rating of horsepower, all fees shall be reckoned at the highest rating; provided, however, that the Commissioner of Motor Vehicles shall, upon the application of any person who or corporation which shall have complied with the provisions of subdivision three of section sixteen of this act, issue to the said person or corporation a sufficient number of special drivers' certificates, which shall have endorsed thereon the registration number under the laws of the adjoining state in which the business of the said applicant shall be conducted of each of the automobiles of said applicant included in and covered by any license certificate issued pursuant to said subdivision three of section sixteen of this act, and which, when duly countersigned by a special agent appointed for that purpose by the said Commissioner of Motor Vehicles pursuant to the provisions of section ten of this act, shall authorize and permit the person to whom the same is issued to operate any of the automobiles registered under the laws of such adjoining state, the registration numbers of which shall appear endorsed upon the said certificate, and no others within the State of New Jersey, for a period of not to exceed twenty-four hours at any one time. Said driver shall at all times when operating any of the said vehicles within the state of New Jersey have in his possession the said certificate, and shall, whenever requested so to do, exhibit the same to any motor vehicle inspector or police officer or constable within the said State of New Jersey; no other certificate of registration shall be required of the said driver, and the preceding provisions of this section shall not be applicable to him; provided, however, it shall be lawful for the Commissioner of Motor Vehicles, at his discretion, to issue to any person a written permit, under the hand and seal of said commissioner, allowing the said person, for the purpose of fitting himself to become a motor vehicle driver, to operate a motor vehicle for a specified period of not more than three weeks, while in the

company and under the supervision of a licensed motor vehicle driver; and such permit, under the hand and seal of the Commissioner of Motor Vehicles, shall be sufficient license for the said person to operate a motor vehicle in this state during the period specified, while in the company of and under the control of a licensed motor vehicle driver of this state; and provided further, that the said person, as well as such licensed motor vehicle driver, shall be held accountable for all violations of this act committed by the said person while in the presence of such licensed motor vehicle driver.

§ 4. [*Act of 1906, § 23, Amended*].—Section twenty-three of the act of which this is an amendment shall be amended to read as follows:

§ 23. [*Speed*].—The following rates of speed may be maintained, but shall not be exceeded upon any public street, public road or turnpike, public park or parkway, or public driveway, or public highway in this state by any one driving a motor vehicle.

Subdiv. 1. [*At Curves, Corners and Crossways*].—A speed of one mile in seven minutes upon the sharp curves of a street or highway, or when turning a corner, and a speed of one mile in four minutes at the junction or intersection of a prominent crossroad where such a street, road or highway passes through the open country. The term "open country" meaning where houses are on an average more than one hundred feet apart.

Subdiv. 2. [*In Cities, Towns or Villages*].—A speed of one mile in five minutes where such street or highway passes through the built-up portion of a city, town, township, borough or village where the houses are on an average less than one hundred feet apart.

Subdiv. 3. [*Passing Vehicles and Animals*].—A speed of one mile in four minutes within two hundred feet of any horse or other beast of draught or burden upon the same street or highway; provided, however, that such speed, not exceeding twenty-five miles per hour, shall be lawful in the open country as may be necessary in order to pass a vehicle traveling in the same direction, but the speed shall be diminished forthwith if necessary to comply with the provisions of this act.

Subdiv. 4. [*Speed — General Considerations — Rate — Speedways — Stopping on Signal*].—Elsewhere, and except as otherwise provided in subdivisions one, two and three of this section, a speed of twenty-five miles per hour; provided, however, that nothing in this section contained shall permit any person to drive a motor vehicle at any speed greater than is reasonable, having regard to the traffic and use of highways, or so as to endanger the life or limb or to injure the property of any person; and it is further provided, that nothing in

this section contained shall affect the right of any person injured, either in his person or property, by the negligent operation of a motor vehicle to sue and recover damages as heretofore; and provided further, that the foregoing provisions concerning the speed of motor vehicles shall not apply to any speedway built and maintained for the exclusive use of motor vehicles, if the said speedway at no point crosses any public street, avenue, road, turnpike, driveway or other public thoroughfare, or any railroad or railway at grade, the said speedway having been constructed with the permission of the commissioners or the board of freeholders, as the case may be, of the county or counties in which said speedway shall be located; and provided further, that every person driving a motor vehicle shall, at the request or upon signal by putting up the hand or otherwise from a person riding or driving a horse or horses in the opposite direction, cause the motor vehicle to stop and remain stationary so long as may be necessary to allow said horse or horses to pass.

§ 5. [*Act of 1906, § 34, Amended*].—Section thirty-four of the act of which this is an amendment shall be amended to read as follows:

§ 34. [*Costs in Prosecutions — Payment — Reversal*].—The fees provided in the following schedule and no other charges whatsoever, shall be allowed the magistrate and officers in proceedings under this act, and where no fee is provided for any necessary service to be performed, the same shall be performed without any charge therefor:

Justices.

Complaint	10 cents
Summons or warrant when necessary to be issued, but not in case of arrest without warrant based on com- plaint,	10 cents
Copies	5 cents each
Subpoena	10 cents
Administering oath to each witness	10 cents
Each adjournment,	15 cents
Entry of judgment,	20 cents
Recognizance or bond, drawing entry and approval of... ..	25 cents
Execution	25 cents
Making return to certiorari	50 cents
Granting appeal and necessary papers	50 cents
Hearing contested case	50 cents
Hearing non-contested case	25 cents

Constables.

Service of summons (except in case of arrest on view where no costs for service)	30 cents
Service of subpoena (except where subpoena to party present at time of arrest, where no costs)	30 cents
Service of execution	75 cents
For every mile of travel in serving any summons or warrant, after the first mile, computed by counting the number of miles in and out, by the most direct route from the place where such process is returnable	3 cents

Witnesses.

For each witness, not exceeding three to each party 25 cents

and which shall be paid by the defendant if the defendant be found guilty of the charge laid against him, but if, on appeal, said judgment be reversed, said costs shall be repaid to said defendant as hereinbefore provided. If the defendant be found not guilty of the charge or charges laid against him, then the costs must be paid by the prosecutor, except that when in such instances the Commissioner of Motor Vehicles or the Inspector of Motor Vehicles shall have been the prosecutor, then the costs laid upon the prosecutor shall be paid by the Commissioner of Motor Vehicles from the moneys remaining in his hands from the payment of registration fees, license fees, or otherwise. In case of the reversal of any judgment on appeal the costs of the magistrate and on appeal shall be borne and paid by the unsuccessful party.

§ 6. [*Time of Taking Effect*].—This act shall take effect immediately.

A Supplement to an act entitled "An Act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations," approved April twelfth, one thousand nine hundred and six.

[Act approved April 21, 1909; Laws 1909, c. 263.]

Be it enacted by the Senate and General Assembly of the State of New Jersey:

§ 1. [*Nonresidents—Eight Day License—Service of Process on Secretary of State*].—Any nonresident of this state who shall have complied with the laws of the state or territory of the United States in which he resides requiring the registration of owners of motor vehicles and the display of identification marks on such vehicles, desiring to operate such motor vehicles within the state of New Jersey, may obtain permission to do so for four periods of two days each in one calendar year, or one period of eight days in any one calendar year, upon application to the Commissioner of Motor Vehicles for such purpose, who is hereby authorized in his discretion to issue a license to such nonresident as hereinafter set forth. The applicant shall make application to the Commissioner of Motor Vehicles, or his duly constituted agent, as hereinafter provided, which application shall state the name and residence of the owner of such motor vehicle, the maker's name and number of the horsepower thereof, and the identification number issued by the state in which said nonresident shall be resident. Such application shall be accompanied by a license fee of one dollar. The Commissioner of Motor Vehicles shall thereupon, at his discretion, issue to such applicant a license which shall be valid for any eight days, or for four periods of two days each, during the balance of the calendar year in which said license is issued. Said license shall be so prepared that it will endure in a legible condition under ordinary atmospheric or weather conditions for at least eight days and also so that the licensee may indicate plainly and conveniently each day he desires to use such license. It shall also contain the name of the state, the name and residence of the owner of such motor vehicle, the maker's name and number, the horsepower thereof, and the registered number of said vehicle in said state. The said licensee, when running said vehicle in this state shall affix said license to the said vehicle in as close proximity as possible to the identification mark of the state of residence (above and at the middle of such mark, unless conditions are such that it cannot be done without injury to the vehicle); but in no case so that it shall obscure any part of the said identification mark. The said licensee shall also plainly indicate, in such a way as shall be prescribed by a rule of the commissioner of motor vehicles, on the license, the day or days he intends to run his vehicle in this state, and shall also, on demand, allow any peace officer to examine said license. Each applicant under this act shall file with the secretary of state a duly executed instrument constituting the secretary of state and his successors in office the

true and lawful attorney upon whom all original process in any action or legal proceeding caused by the operation of such registered motor vehicle within this state against such owner may be served, and shall agree further that any original process against such owner shall be of the same force and effect as if served upon such owner within this state.

§ 2. [*Regulations as to Operation*].—The operation of such motor vehicle within this state shall be subject to all the provisions of the act to which this act is a supplement, and the various amendments thereof and supplements thereto which are not in conflict with the provisions of this act.

§ 3. [*Issuance of Licenses—Agencies—Record—Acts Repealed Hereby—Time of Taking Effect*].—The Commissioner of Motor Vehicles is authorized to establish such agencies in this or any other state or territory, for which permits may be obtained, as he may deem necessary. Only one such license shall be issued to the owner of any motor vehicle in any one year, and such license, together with the facts contained therein, shall be recorded in the office of the Commissioner of Motor Vehicles. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect immediately.

An Act to amend an act entitled "An act defining motor vehicles and providing for the registration of the same and the licensing of the drivers thereof; fixing rules, regulating the use and speed of motor vehicles, fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations," approved April twelfth, one thousand nine hundred and six.

[Act approved April 9, 1910; Laws 1910, c. 224.]

Be it enacted by the Senate and General Assembly of the State of New Jersey:

§ 1. [*Act of 1906, § 6, Amended*].—Section six of the act of which this act is an amendment, shall be amended to read as follows:

§ 6. [*Use of Chains—Snow or Ice*].—No motor vehicle tire shall be fitted with a chain nor shall any tire upon any motor vehicle be constructed of or have thereon any blocks, hobs, studs, or other projections beyond the periphery of the tire forming the tread or traction surface of such tire, and which shall extend beyond three-eighths of an inch from the periphery of such tire, when such motor vehicle

shall be used upon gravel, macadam or other made roads, except upon natural dirt, asphalt, cobble, Belgian blocks or vitrified pavements; provided, however, that tires may be fitted with a chain when used upon roads covered with a coating of at least one inch of snow or ice.

§ 2. [*Acts Repealed—Time of Taking Effect*].—All acts or parts of acts inconsistent herewith are hereby repealed, and this act shall take effect immediately.

An Act to amend an act entitled "An Act to amend an act entitled 'An Act defining motor vehicles and providing for the registration of the same and the licensing of drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations,' approved April twelfth, one thousand nine hundred and six," which amendatory act was approved April twenty-first, one thousand nine hundred and nine.

[Act approved April 9, 1910; Laws 1910, c. 225.]

Be it enacted by the Senate and General Assembly of the State of New Jersey:

§ 1. [*Act of 1906, § 37, as Amended by Act of 1908, § 8, Amended*].—Section thirty-seven of the act of which this act is amendatory is hereby amended so that the same shall read as follows:

§ 37. [*Disposition of Fees and Fines*].—Moneys received in accordance with the provisions of this act, whether from fines, penalties, registration fees, license fees or otherwise, shall be accounted for and forwarded to the Commissioner of Motor Vehicles and by him paid over to the Treasurer of the State of New Jersey, to be used by the Commissioner of Public Roads as a fund for the repair of such improved roads throughout the state as said commissioner shall designate, regard being had to the repair of the most important improved roads, and the distribution of the benefits of this act throughout the several counties of this state; *provided, however*, that there shall first be deducted from the moneys as aforesaid received the amount appropriated by the legislature in any annual or supplemental bill for the maintenance of said department of motor vehicles, which said sum so deducted shall become a part of the general state fund.

§ 2. [*Time of Taking Effect*].—This act shall take effect immediately.

NEW YORK.

ACT OF MAY 31, 1910.

- § 1. Laws 1909, c. 30, Amended.
- § 280. Application of Article.
 - 281. Definitions — "Motor Vehicle" — "Chauffeur" — "Owner" — Public Highway.
 - 282. Registration of Motor Vehicles; Age of Operator; Fees, Renewals.
 - Subdiv. 1. Registration by Owners.
 - 2. Age of Operator.
 - 3. Registration Book.
 - 4. Certificate of Registration.
 - 5. Time for Registration and Reregistration.
 - 6. Registration Fees.
 - 7. Fees in Lieu of Taxes.
 - 8. Sale and Registration by Vendee.
 - 9. Sale by Manufacturer or Dealer— Operation by Vendee.
 - 283. Distinctive Number; Form of Number Plates.
 - Subdiv. 1. Distinctive Number Must Be Carried on Motor Vehicles.
 - 2. Number Plates to Be Changed Annually.
 - 3. Form of Number Plate.
 - 284. Registration by Manufacturers and Dealers; Reregistration.
 - Subdiv. 1. Registration by Manufacturers and Dealers.
 - 2. Reregistration Annually
 - 285. Exemption of Nonresident Owners.
 - 286. Signaling and Other Devices; Signals; Rules of the Road.
 - Subdiv. 1. Brakes, Horns and Lamps, Signaling at Crossings.
 - 2. Stopping on Signal and Other Regulations.
 - 3. Rules of the Road.
 - 287. Speed Permitted.
 - 288. Local Ordinances Prohibited.
 - 289. License of Chauffeurs; Renewals.

- § 289. Subdiv. 1. License of Chauffeurs.
 2. Chauffeurs' Licensed Registration Book.
 3. Unauthorized Possession or Use of License or Badge.
 4. Unlicensed Chauffeurs Cannot Drive Motor Vehicle.
 5. Renewal.

290. Punishment for Violation; Procedure.

Subdiv. 1. Violation of Sections 282, 283, 284.

2. Violation of Section 287.
 3. Driving While Intoxicated—Going Away after Accident.
 4. Driving after Suspension or Revocation of License.
 5. Driving after Suspension or Revocation of Registration.
 6. Violation of Sections 287, 288—Third Offense.
 7. Violation of Section 289.
 8. Application for Registration.
 9. Violations Not Specially Provided for.
 10. Certifying Conviction to the Secretary of State.
 11. Release from Custody, Bail, etc.
 12. Holding Defendant to Answer where Magistrate has not Jurisdiction to Try Offender; Admitting to Bail.
 13. Disposition and Return of Bail.
 14. Prosecution for Assault or Homicide Not Affected.

291. Disposition of Registration Fees; Fines and Penalties.

- Subdiv. 1. Disposition of Fees.
 2. Disposition of Fines and Penalties.
 3. Use of Money for Road Purposes.

292. Rates of Toll on Motor Vehicles.

293. Acts Repealed.

§ 2. Time of Taking Effect.

ACT OF JUNE 23, 1910.

§ 1. Laws 1909, c. 88, Amended.

§ 1293-a. Unauthorized Use of Vehicles.

§ 2. Time of Taking Effect.

An Act to amend the highway law, by repealing article eleven thereof and inserting a new article eleven in relation to motor vehicles.

[Act approved May 31, 1910; Laws 1910, c. 374.]

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. [*Laws 1909, c. 30, Amended*].—Chapter thirty of the laws of nineteen hundred and nine, entitled "An Act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by repealing article eleven thereof and by inserting therein a new article, to be article eleven thereof, to read as follows:

ARTICLE 11.

Motor Vehicles.

- § 280. Application of article.
- 281. Definitions.
- 282. Registration of motor vehicles; age of operator; fees; renewals.
- 283. Distinctive number; form of number plates.
- 284. Registration by manufacturers and dealers; reregistration.
- 285. Exemption of nonresident owners.
- 286. Signaling and other devices; signals; rules of the road.
- 287. Speed permitted.
- 288. Local ordinances prohibited.
- 289. License of chauffeurs; renewals.
- 290. Punishment for violation; procedure.
- 291. Disposition of registration fees; fines and penalties.
- 292. Rates of toll on motor vehicles.
- 293. Acts repealed.

§ 280. *Application of Article.*—Except as herein otherwise expressly provided this article shall be exclusively controlling:

- 1. Upon the registration, numbering and regulation of motor vehicles, and the licensing and the regulation of chauffeurs;
- 2. On their use of the public highways, and
- 3. On the accessories used upon motor vehicles and their incidents and the speed of motor vehicles upon the public highways;
- 4. On the punishment for the violation of any of the provisions of this article.

§ 281. *Definitions.* — ["*Motor Vehicle*" — "*Chauffeur*" — "*Owner*" — "*Public Highway*"].—The term "motor vehicle" as used in this article, except where otherwise expressly provided, shall include all vehicles

propelled by any power other than muscular power, except motor bicycles, motor cycles, traction engines, road rollers, fire wagons and engines, police patrol wagons, ambulances and such vehicles as run only upon rails or tracks. The term "local authorities" shall include all officers of counties, cities, boroughs, towns or villages, as well as all boards, committees and other public officials of such counties, cities, boroughs, towns or villages. The term "chauffeur" shall mean any person operating or driving a motor vehicle as an employee or for hire. The term "state" as used in this article, except where otherwise expressly provided, shall also include the territories and the federal districts of the United States. The term "owner" shall also include any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days. The term "public highway" shall include any highway, county road, state road, public street, avenue, alley, park, parkway or public place in any county, city, borough, town or village, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages.

§ 282. *Registration of Motor Vehicles; Age of Operator; Fees, Renewals.* Subdiv. 1. *Registration by owners.* Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the secretary of state a verified application for registration on a blank to be furnished by the secretary of state for that purpose, containing: (a) A brief description of the motor vehicle to be registered, including the name of the manufacturer and factory number of such vehicle, the character and amount of the motive power stated in figures of horse power in accordance with the rating established by the Association of Licensed Automobile Manufacturers; (b) the name, residence, including county and business address, of the owner of such motor vehicle; (c) provided that, if such motor vehicle is used or to be used solely for commercial purposes, the applicant shall so certify.

Subdiv. 2. *Age of operator.* No person shall operate or drive a motor vehicle who is under eighteen years of age, unless such person is accompanied by a duly licensed chauffeur or the owner of the motor vehicle being operated.

Subdiv. 3. *Registration book.* Upon the receipt of an application for registration of a motor vehicle, as provided in this article, the secretary of state shall file such application in his office and register such motor vehicle or vehicles, with the name, residence and business address of the owner, manufacturer or dealer as the case may be, together with the facts stated in such application, in a book or

index to be kept for the purpose, under the distinctive number assigned to such motor vehicle by the secretary of state, which book or index shall be open to public inspection during reasonable business hours.

Subdiv. 4. *Certificate of registration.* Upon the filing of such application and the payment of the fee hereinafter provided, the secretary of state shall assign to such motor vehicle a distinctive number, and, without expense to the applicant, issue and deliver to the owner a certificate of registration, in such form as the secretary of state shall prescribe, and two number plates. In the event of the loss, mutilation or destruction of any certificate of registration, number plate, license or badge, the owner of a registered motor vehicle or manufacturer, or dealer, or chauffeur, as the case may be, may obtain from the secretary of state a duplicate thereof upon filing in the office of the secretary of state an affidavit showing such fact and the payment of a fee of one dollar.

Subdiv. 5. *Time for registration and reregistration.* Registration applied for on or before August first, nineteen hundred and ten, shall take effect on that date and certificates issued on such application or under any application made prior to January thirty-first, nineteen hundred and eleven, shall expire on the latter date. The fees for such registration shall be one-half the annual fees provided herein. Registration thereafter shall be renewed annually in the same manner and upon payment of the same annual fee as provided in this section for registration, to take effect on the first day of February, in each year beginning with such date in the year nineteen hundred and eleven; and the certificates of registration issued thereunder between any such dates shall expire on the succeeding thirty-first day of January.

Subdiv. 6. *Registration fees.* The following fees shall be paid to the secretary of state upon the registration or reregistration of a motor vehicle in accordance with the provisions of this article: five dollars upon the registration of a motor vehicle having a rating of twenty-five horse power or less; ten dollars upon the registration of a motor vehicle having a rating of more than twenty-five horse power and less than thirty-five horse power; fifteen dollars upon the registration of a motor vehicle having a rating of thirty-five horse power and less than fifty horse power; twenty-five dollars upon the registration of a motor vehicle having a rating of fifty horse power or more; provided that if a motor vehicle other than one used solely for commercial purposes shall have been licensed for four separate years hereunder and for which there shall have been paid the annual registration fees herein provided during said period, the annual registration fees thereafter shall be one-half the amount; and further provided that for motor vehicles which are used or to be used solely for commercial purposes, the fee for such registration shall be five dollars.

Subdiv. 7. *Fees in lieu of taxes.* The registration fees imposed by this article upon motor vehicles, other than those of manufacturers and dealers and those used solely for commercial purposes, shall be in lieu of all taxes, general or local, to which motor vehicles may be subject.

Subdiv. 8. *Sale and registration by vendee.* Upon the sale or transfer of a motor vehicle registered in accordance with this section, the vendor shall immediately give notice thereof with the name and residence of the vendee to the secretary of state, and the vendee shall, within ten days after the date of such sale or transfer, notify the secretary of state thereof upon a blank furnished promptly by him for that purpose, stating the name and business address of the previous owner, if known, the number under which such motor vehicle is registered and the name, residence, including county and business address, of the vendee. Upon filing such statement duly verified such vendee shall pay to the secretary of state a fee of one dollar, and upon receipt of such statement and fee the secretary of state shall file such statement in his office and note upon the registration book or index such change in ownership.

Subdiv. 9. [*Sale by Manufacturer or Dealer—Operation by Vendee*].—Upon the sale of a motor vehicle by the manufacturer or dealer the vendee shall be allowed to operate the same upon the public highways for a period of fifteen days after taking possession thereof or until he shall have received his certificate of registration and number plates from the secretary of state, providing that during such period the motor vehicle shall have attached thereto, in accordance with the provisions hereof, a placard bearing the registration number of the dealer under which it might previously have been operated, and provided, further, that application for registration shall be made by mail or otherwise before such vehicle shall be so used.

§ 283. *Distinctive Number; Form of Number Plates.* [Subdiv.]

1. *Distinctive number must be carried on motor vehicles.* No person shall operate or drive a motor vehicle on the public highways of this state after the first day of August, nineteen hundred and ten, unless such vehicle shall have a distinctive number assigned to it by the secretary of state and a number plate with a number corresponding to that of the certificate of registration conspicuously displayed, one on the front and one on the rear of such vehicle, each securely fastened so as to prevent the same from swinging.

Subdiv. 2. *Number plates to be changed annually.* Such number plates shall be of a distinctly different color each year, and there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon.

Subdiv. 3. *Form of number plate.* Such number plate shall be

of metal, at least six inches wide and not less than fifteen inches in length, on which there shall be the initials "N. Y.," and there shall be the distinctive number assigned to the vehicle set forth in numerals four inches long, each stroke of which shall be at least five-eighths of an inch in width; provided that in the case of a motor vehicle registered by a manufacturer or dealer there shall be on such plate in addition to the foregoing the letter "M," each stroke of such letter to be at least four inches long and five-eighths of an inch in width. No vehicle shall display the number plates of more than one state at any time.

§ 284. *Registration by Manufacturers and Dealers; Reregistration.*
Subdiv. 1. *Registration by manufacturers and dealers.* Every person, firm, association or corporation manufacturing or dealing in motor vehicles may, instead of registering each motor vehicle so manufactured or dealt in, make a verified application upon a blank to be furnished by the secretary of state for a general distinctive number for all the motor vehicles owned or controlled by such manufacturer or dealer, such application to contain: (a) A brief description of each style or type of motor vehicle manufactured or dealt in by such manufacturer or dealer, including the character of the motor power, the amount of such motor power stated in figures of horse power in accordance with the rating established by the Association of Licensed Automobile Manufacturers; and (b) the name, residence, including county and business address, of such manufacturer or dealer. On the payment of the registration fee of fifteen dollars such application shall be filed and registered in the office of the secretary of state in the manner provided in section two hundred and eighty-two of this article. There shall thereupon be assigned and issued to such manufacturer or dealer a general distinctive number and without expense to the applicant issued and promptly delivered to such manufacturer or dealer a certificate of registration in such form as the secretary of state shall prescribe, and a number plate with a number corresponding to the number of such certificate of registration. Such number plate or a duplicate thereof shall be displayed by every motor vehicle of such manufacturer or dealer when the same is operated or driven on the public highways. Such manufacturer or dealer may obtain as many duplicates of such number plate as may be desired upon payment to the secretary of state of one dollar for each duplicate. Nothing in this subdivision shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for private use or for hire.

Subdiv. 2. *Registration annually.* Such registration shall be renewed annually in the same manner and on the payment of the same fee as provided in this section for original registration, such renewal to take effect on the first day of February of each year. Provisions

of subdivision five of section two hundred and eighty-two, relating to first registrations made under this article and duration of renewals, shall apply to registration under this section.

§ 285. *Exemption of Nonresident Owners.* The provisions of the foregoing sections relative to registration and display of registration numbers shall not apply to a motor vehicle owned by a nonresident of this state, other than a foreign corporation doing business in this state, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence relative to registration of motor vehicles and the display of registration numbers thereon, and shall conspicuously display his registration numbers as required thereby. The provisions of this section, however, shall be operative as to a motor vehicle owned by a nonresident of this state only to the extent that under the laws of the foreign country, state, territory or federal district of his residence like exemptions and privileges are granted to motor vehicles duly registered under the laws of and owned by residents of this state.

§ 286. *Signaling and Other Devices—Signals—Rules of the Road.* Subdiv. 1. *Brakes—Horns and Lamps—Signaling at Crossings.* Every motor vehicle, operated or driven upon the public highways of this state, shall be provided with adequate brakes in good working order and sufficient to control such vehicle at all times when the same is in use, and a suitable and adequate bell, horn or other device for signaling, and shall, during the period from one-half hour after sunset to one-half hour before sunrise, display at least two lighted lamps on the front and one on the rear of such vehicle, which shall also display a red light visible from the rear. The rays of such rear lamp shall shine upon the number plate carried on the rear of such vehicle in such manner as to render the numerals thereon visible for at least fifty feet in the direction from which the motor vehicle is proceeding. The light of the front lamps shall be visible at least two hundred feet in the direction in which the motor vehicle is proceeding. Every person operating or driving a motor vehicle on the public highways of this state shall also, when approaching a cross road outside the limits of a city or incorporated village, slow down the speed of the same and shall sound his bell, horn or other device for signaling in such a manner as to give notice and warning of his approach.

Subdiv. 2. *Stopping on Signal, and Other Regulations.* A person operating or driving a motor vehicle shall, on signal by raising the hand, from a person riding, leading or driving a horse or horses or other draft animals, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so

long as may be reasonable to allow such horse or animal to pass, and, if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided that, in case such horse or animal appears badly frightened or the person operating such motor vehicle is so signaled to do, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others. In approaching or passing a car of a street railway which has been stopped to allow passengers to alight or embark, the operator of every motor vehicle shall slow down and if it be necessary for the safety of the public he shall bring said vehicle to a full stop. Upon approaching a pedestrian who is upon the traveled part of any highway and not upon a sidewalk, and upon approaching an intersecting highway or a curve or a corner in a highway where the operator's view is obstructed, every person operating a motor vehicle shall slow down and give a timely signal with his bell, horn or other device for signaling.

Subdiv. 3. *Rules of the Road.* Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, the person so operating such motor vehicle shall seasonably turn the same to the right of the center of such highway so as to pass without interference. Any such person so operating a motor vehicle shall on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person so operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left.

§ 287. *Speed Permitted.* Every person operating a motor vehicle on the public highway of this state shall drive the same in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person; provided, that a rate of speed in excess of thirty miles an hour for a distance of one-fourth of a mile shall be presumptive evidence of driving at a rate of speed which is not careful and prudent.

§ 288. *Local Ordinances Prohibited.* Except as herein otherwise provided, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring from any owner or chauffeur to whom this article is applicable, any tax, fee, license or permit for the use of the public highways, or excluding any such owner or chauffeur from the free use of such public highways, excepting such driveway, speedway or road as has been or may be expressly set

apart by law for the exclusive use of horses and light carriages or in any other way respecting motor vehicles or their speed upon or use of the public highways; and no ordinance, rule or regulation contrary to or in anywise inconsistent with the provisions of this article, now in force or hereafter enacted, shall have any effect; provided, however, that the power given to local authorities to regulate vehicles offered to the public for hire, and processions, assemblages or parades in the streets or public places, and all ordinances, rules and regulations which may have been or which may be enacted in pursuance of such powers shall remain in full force and effect; and provided, further, that local authorities may set aside for a given time a specified public highway for speed contests or races, to be conducted under proper restrictions for the safety of the public; and provided, further, that local authorities may exclude motor vehicles from any cemetery or grounds used for the burial of the dead, and may by general rule, ordinance or regulation exclude motor vehicles used solely for commercial purposes from any park or part of a park system, where such general rule, ordinance or regulation is applicable equally and generally to all other vehicles used for the same purposes, and provided further that nothing in this article contained shall impair the validity or effect of any ordinances, regulating the speed of motor vehicles, or of any traffic regulations with regard to the operation of motor vehicles, heretofore or hereafter made, adopted or prescribed pursuant to law in any city of the first class; provided, further, that the local authorities of other cities and incorporated villages may limit by ordinance, rule or regulation the speed of motor vehicles on the public highways, such speed limitation not to be in any case less than one mile in four minutes, and the maintenance of a greater rate of speed for one-eighth of a mile shall be presumptive evidence of driving at a rate of speed which is not careful and prudent, and on further condition that each city or village shall have placed conspicuously on each main public highway where the city or village line crosses the same and on every main highway where the rate of speed changes, signs of sufficient size to be easily readable by a person using the highway, bearing the words, "City of ——" or "Incorporated village of ——" "Slow down to — miles" (the rate being inserted), and also an arrow pointing in the direction where the speed is to be reduced or changed, and also on further condition that such ordinance, rule or regulation shall fix the punishment for violation thereof, which punishment shall, during the existence of the ordinance, rule or regulation, supersede those specified in subdivision two of section two hundred and ninety of this chapter but, except in cities of the first class, shall not exceed the same. Official copies of all local ordinances passed under the provisions of this subdivision shall

be filed with the secretary of state at least thirty days before they shall respectively take effect and all such local ordinances shall be printed in pamphlet form and issued at regular intervals by the secretary of state.

§ 289. *License of Chauffeurs—Renewals.* Subdiv. 1. *License of Chauffeurs.* Application for license to operate motor vehicles, as a chauffeur, may be made, by mail or otherwise, to the secretary of state or his duly authorized agent upon blanks prepared under his authority. The secretary of state shall appoint examiners and cause examinations to be held at convenient points throughout the state as often as may be necessary. Such applications shall be accompanied by a photograph of the applicant in such numbers and forms as the secretary of state shall prescribe, said photograph to be taken within thirty days prior to the filing of said application and to be accompanied by the fee provided herein. Before such a license is granted the applicant shall pass such examination as to his qualifications as the secretary of state shall require, and no license shall be issued until the secretary of state or his authorized agent is satisfied that the applicant is a proper person to receive it. No chauffeur's license shall be issued to any person under eighteen years of age. To each person shall be assigned some distinguishing number or mark, and the license issued shall be in such form as the secretary of state shall determine; it may contain special restrictions and limitations concerning the type of motor power, horse power, design and other features of the motor vehicles which the licensee may operate; it shall contain the distinguishing number or mark assigned to the licensee, his name, place of residence and address, a brief description of the licensee for the purpose of identification and the photograph of the licensee. Such distinctive number or mark shall be of a distinctly different color each year and in any year shall be of the same color as that of the number plates issued for that year. The secretary of state shall furnish to every chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon without extra charge therefor. This badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place, at all times while he is operating or driving a motor vehicle upon the public highways. Said badge shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid. Every person licensed to operate motor vehicles as aforesaid shall indorse his usual signature on the margin of the license, in the space provided for the purpose, immediately upon receipt of said license, and such license shall not be valid until so indorsed. Every application for license filed under the provisions of this section shall be sworn to and shall be accompanied by a fee of five dollars. The license here-

under granted on or before August first, nineteen hundred and ten, shall take effect on that date, and licenses issued prior to January thirty-first, nineteen hundred and eleven, shall expire on that date. The fees for such licenses shall be one-half of the annual fees provided herein.

Subdiv. 2. *Chauffeurs' Licensed Registration Book.* Upon the receipt of such an application, the secretary of state shall thereupon file the same in his office, and register the applicant in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles, and when the applicant shall have passed the examination provided for in the preceding section, the number or mark assigned to such applicant together with the fact that such applicant has passed such examination shall be noted in said book or index.

Subdiv. 3. *Unauthorized Possession or Use of License or Badge.* No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge, nor shall any person while operating or driving a motor vehicle use or possess any license or badge belonging to another person, or a fictitious license or badge.

Subdiv. 4. *Unlicensed Chauffeurs Cannot Drive Motor Vehicles.* No person shall operate or drive a motor vehicle as a chauffeur upon a public highway of this state after the first day of August, nineteen hundred and ten, unless such person shall have complied in all respects with the requirements of this section; provided, however, that a nonresident chauffeur, who has registered under provisions of law of the foreign country, state, territory or federal district of his residence substantially equivalent to the provisions of this section, shall be exempt from license under this section; and provided, further, he shall wear the badge assigned to him in the foreign country, state, territory or federal district of his residence in the manner provided in this section.

Subdiv. 5. *Renewal.* Such license shall be renewed annually upon the payment of the same fee as provided in this section for the original license, such renewal to take effect on the first day of February of each year.

§ 290. *Punishment for Violation—Procedure.* Subdiv. 1. [*Violation of Sections 282, 283, 284*].—The violation of any of the provisions of sections two hundred and eighty-two, two hundred and eighty-three and two hundred and eighty-four of this article shall constitute a misdemeanor punishable by a fine not exceeding fifty dollars.

Subdiv. 2. [*Violation of Section 287*].—The violation of any of the provisions of section two hundred and eighty-seven of this article

shall constitute a misdemeanor punishable by a fine not exceeding one hundred dollars.

Subdiv. 3. *Punishment for Operating Motor Vehicle while in an Intoxicated Condition; for Going Away without Stopping after Accident and Making Himself Known.* Whoever operates a motor vehicle while in an intoxicated condition shall be guilty of a misdemeanor. Any person operating a motor vehicle who, knowing that injury has been caused to a person or property, due to the culpability of the said operator, or to accident, leaves the place of said injury or accident, without stopping and giving his name, residence, including street and street number, and operator's license number to the injured party, or to a police officer, or in case no police officer is in the vicinity of the place of said injury or accident, then reporting the same to the nearest police station, or judicial officer, shall be guilty of a felony punishable by a fine of not more than five hundred dollars or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment; and if any person be convicted a second time of either of the foregoing offenses, he shall be guilty of a felony punishable by imprisonment for a term of not less than one year and not more than five years. A conviction of a violation of this subdivision shall be reported forthwith by the trial court or the clerk thereof to the secretary of state, who shall upon recommendation of the trial court suspend the license of the person so convicted or if he be an owner the certificate of registration of his motor vehicle and, if no appeal therefrom be taken, or if an appeal duly taken be dismissed, or the judgment affirmed, and upon notice thereof by said clerk, the secretary of state shall revoke such license or in the case of an owner the certificate of registration of his motor vehicle, and shall order the license or certificate of registration delivered to the secretary of state, and shall not reissue to him said license or certificate of registration or any other license or certificate of registration unless the secretary of state in his discretion, after an investigation or upon a hearing, decides to reissue or issue such license or certificate.

Subdiv. 4. [*Driving After Suspension or Revocation of License.*].—Any chauffeur operating a motor vehicle while his license is suspended or revoked shall be guilty of a misdemeanor.

Subdiv. 5. [*Driving After Suspension or Revocation of Registration.*].—Any person who operates any motor vehicle while a certificate of registration of motor vehicles issued to him is suspended or revoked shall be guilty of a misdemeanor.

Subdiv. 6. [*Violation of Sections 287, 288—Third Offense.*].—Upon a third or subsequent conviction of a chauffeur for a violation of the provisions of section two hundred and eighty-seven, or an ordinance,

rule or regulation regulating speed of motor vehicles under section two hundred and eighty-eight, the secretary of state, upon the recommendation of the trial court, shall forthwith revoke the license of the person so convicted and no new license shall be issued to such person for at least six months after the date of such conviction nor thereafter except in the discretion of the said secretary of state.

Subdiv. 7. [*Violation of Section 289*].—The violation of any of the provisions of section two hundred and eighty-nine of this article shall constitute a misdemeanor punishable by a fine not exceeding fifty dollars.

Subdiv. 8. [*Application for Registration*].—Any person making a false statement in the verified application for registration shall be guilty of a misdemeanor punishable by a fine of not exceeding fifty dollars.

Subdiv. 9. [*Violations not Specially Provided for*].—Any person violating any of the provisions of any section of this article for which violation no punishment has been specified, shall be guilty of a misdemeanor punishable by a fine of not exceeding twenty-five dollars.

Subdiv. 10. *Certifying Conviction to the Secretary of State*. Upon the conviction of any person for a violation of any of the provisions of this article the trial court or the clerk thereof shall immediately certify the facts of the case, including the name and address of the offender, the judgment of the court and the sentence imposed, to the secretary of state, who shall enter the same either in the book or index of registered motor vehicles or in the book or index of registered chauffeurs, as the case may be, opposite the name of the person so convicted, and in the case of any other person, in a book or index of offenders to be kept for such purpose. If any such conviction shall be reversed upon appeal therefrom, the person whose conviction has been so reversed may serve on the secretary of state a certified copy of the order of reversal, whereupon the secretary of state shall enter the same in the proper book or index in connection with the record of such conviction.

Subdiv. 11. *Release from Custody, Bail, et cetera*. In case any person shall be taken into custody charged with a violation of any of the provisions of this article, he shall forthwith be taken before the nearest magistrate, captain, lieutenant, clerk of the court or acting lieutenant who shall have the power of a magistrate and be entitled to an immediate hearing or admission to bail, and if such hearing cannot then be had, be released from custody on giving a bond or undertaking, executed by a fidelity or surety company authorized to do business in this state, or other bail in the form provided by section five hundred and sixty-eight of the code of criminal procedure, such

bond or undertaking to be in an amount not exceeding one hundred dollars, if the charge be for a misdemeanor, for his appearance to answer for such violation at such time and place as shall then be indicated. In case a person is taken into custody charged with being guilty of a felony in violation of any of the provisions of this article such bond or undertaking shall be in an amount not less than one thousand dollars. On giving his personal undertaking to appear to answer any such violation at such time and place as shall then be indicated, secured by the deposit of a sum of money equal to the amount of such bond or undertaking, or in lieu thereof, in case the person taken into custody is the owner, by leaving the motor vehicle, or in case such person taken into custody is not the owner, by leaving the motor vehicle as herein provided with a written consent given at the time by the owner who must be present, with such officer; or in case such person is taken into custody because of a violation of any of the provisions of this article other than on a charge of violating any of the provisions of subdivision three of section two hundred and ninety and such officer is not accessible, be forthwith released from custody on giving his name and address to the person making the arrest and depositing with such arresting officer the sum of one hundred dollars, or in lieu thereof, in case the person taken into custody is the owner, by leaving the motor vehicle, or, in case such person taken into custody is not the owner, by leaving the motor vehicle with a written consent at the time by the owner who must be present; provided that, in any such case, the officer making the arrest shall give a receipt in writing for such sum or vehicle deposited and notify such person to appear before the most accessible magistrate, describing him, and specifying the place and hour. In case such bond or undertaking shall not be given or deposit made by the owner or other person taken into custody, the provisions of law in reference to bail, in cases of misdemeanor, shall apply. Where the charge is a violation of subdivision three of section two hundred and ninety of this article, the provisions of law in reference to bail in cases of misdemeanor or a felony as the case may be shall apply exclusively.

Subdiv. 12. *Holding Defendant to Answer Where Magistrate Has Not Jurisdiction to Try Offender; Admitting to Bail.* In case the magistrate before whom any person shall be taken, charged with the violation of any provision of this article, shall not have jurisdiction to try the defendant, but shall hold the defendant to answer as provided by section two hundred and eight of the code of criminal procedure, he shall admit such defendant to bail upon his giving a surety company's bond or undertaking to appear to answer for such violation

at such time and place as shall then be indicated, or upon his giving a written undertaking in the form provided in section five hundred and sixty-eight of the code of criminal procedure in a sum not exceeding one hundred dollars, except that in a case where the defendant is charged with a violation of any of the provisions of subdivision three of section two hundred and ninety of this article, the provisions of law in reference to bail in cases of a misdemeanor or a felony as the case may be shall apply exclusively.

Subdiv. 13. *Disposition and Return of Bail.* Such bail as may be deposited as herein provided shall be held by the officer accepting the same or the clerk of the court. Upon the person who has been taken into custody and given security or bail for his appearance surrendering himself for trial and upon the conclusion of such trial the court shall issue to the defendant an order upon the magistrate or clerk of the court or other officer authorized to accept bail to return or deliver back said security or bail as was given.

Subdiv. 14. [*Prosecution for Assault or Homicide Not Affected*].—A conviction of violation of any provision of this article shall not be a bar to a prosecution for an assault or for a homicide committed by any person in operating a motor vehicle.

§ 291. *Disposition of Registration Fees—Fines and Penalties.*

Subdiv. 1. [*Disposition of Fees*].—The registration fees provided herein shall be paid by the secretary of state into the state treasury.

Subdiv. 2. *Disposition of Fines and Penalties.* On the first day of each month or within ten days thereafter all fines, penalties or forfeitures collected for violations of any of the provisions of this article or of any act in relation to the use of the public highways by motor vehicles not in force or hereafter enacted, under the sentence or judgment of any court, judge, magistrate or other judicial officer having jurisdiction in the premises, shall be paid over by such court, judge, magistrate or other judicial officer to the treasurer of the state, with a statement accompanying the same, setting forth the action or proceeding in which such moneys were collected, the name and residence of the defendant, the nature of the offense, and the fine, penalty, sentence or judgment imposed. On the first day of each month or within ten days thereafter, every judge, magistrate or clerk of a court having jurisdiction of the violation of any of the provisions of this article, shall make and forward to the treasurer of the state, a verified report of all criminal actions or proceedings instituted or tried before him or it during the preceding calendar month for violation of any of the provisions of this article, which report shall set forth the name and address of the defendants, the nature of the offenses and the fines and penalties collected or imposed by such court, judge, magistrate or judicial officer, which report shall

be open to inspection during reasonable business hours to any citizen of the state. On or before the first day of February of each year, the treasurer shall transmit to each branch of the legislature a statement showing the amount of the receipts under this article during the preceding fiscal year paid into the state treasury.

Subdiv. 3. [*Use of Money for Road Purposes*].—All moneys paid into the state treasury pursuant to this article shall be appropriated and used for the maintenance and repair of the improved roads of the state under the direction of the state commission of highways.

§ 292. *Rates of Toll on Motor Vehicles.* Where a different rate is not otherwise prescribed or permitted by law, any person or corporation maintaining a plankroad, turnpike road or bridge and authorized, or which shall be hereafter authorized, to receive tolls for the passage of vehicles over the same, may charge and receive for each and every motor vehicle propelled by any power other than animal power, passing over the same, a toll rate not greater than the maximum rate allowed by law to be charged and received for the passage of a vehicle drawn over such road or bridge by two animals, provided that for such motor vehicles designed to carry only two persons the rate of toll charged or received shall not exceed the maximum rate allowed by law to be charged and received for the passage of a vehicle drawn over such road or bridge, without a load, by a single animal.

293. *Acts Repealed.* All acts or parts of acts inconsistent with this article or contrary thereto are hereby expressly repealed.

§ 2. [*Time of Taking Effect*].—This act shall take effect August first, nineteen hundred and ten, excepting that applications for registration may be made, examinations held and number plates, licenses and badges issued, at any time within ninety days prior to the time of the taking effect of this article.

An Act to amend the penal law, in relation to the unauthorized use of vehicles.

[Act approved June 23, 1910; Laws 1910, c. 621.]

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. [*Laws 1909, c. 88, Amended*].—Section twelve hundred and ninety-three-a of chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An Act providing for the punishment of crime, constituting chapter forty of the consolidated laws," as added thereto by chapter five hundred and fourteen of the laws of nineteen hundred and nine, is hereby amended so as to read as follows:

§ 1293-a. *Unauthorized Use of Vehicles.* Any chauffeur or other

person who without the consent of the owner shall take, use, operate or remove, or cause to be taken, used, operated or removed from a garage, stable, or other building or place or from any place or locality on a private or public highway, park, parkway, street, lot, field, inclosure or space an automobile or motor vehicle, and operate or drive or cause the same to be operated or driven for his own profit, use or purpose, steals the same, and is guilty of larceny and shall be punishable accordingly.

§ 2. [*Time of Taking Effect.*].—This act shall take effect immediately.

NORTH CAROLINA.

ACT OF FEB. 7, 1907.

- § 1. Taking Vehicle without Permission—Penalty.
- 2. Time of Taking Effect.

ACT OF MARCH 6, 1909.

- § 1. Definitions—"Motor Vehicles"—"Highway"—"Business Portion."
- 2. Registration of Vehicles—Certificates—Seals—Renewals—Fees.
- 3. Transfer of Vehicle—Return of Certificate and Seal.
- 4. Display of Number—Lights—Other Numbers.
- 5. Operation Conditioned upon Registration and Display of Number—Fictitious Number.
- 6. Nonresidents—Passing through State.
- 7. Compliance with Act Required—Driving while Intoxicated, in Race or on Wager.
- 8. Disposition of Fees—Carrying Out Act.
- 9. Speed—General Considerations—Rates.
- 10. Speed at Crossways, Curves, Hills, etc.
- 11. Approaching Horses—Speed—Warning—Care.
- 12. Stopping on Signal—Stopping Motor—Assistance.
- 13. Rules of Road—Meeting—Rule at Crossways.
- 14. Overtaking Horse-Drawn Vehicle—Assistance.
- 15. Accident—Stopping and Disclosing Identity.
- 16. Local Regulations—Speed—Signs.
- 17. Civil Actions Not Abridged.
- 18. Penalties—Second and Third Offenses.
- 19. Jurisdiction of Prosecutions.
- 20. Arrest of Offenders—Trial—Bail.
- 21. List of Vehicles Registered—Distribution—Price.
- 22. Acts Repealed.
- 23. Time of Taking Effect—Application to New Hanover County.

An Act for the larceny or temporary use of an automobile.

[Act ratified Feb. 7, 1907; Laws 1907, c. 126.]

The General Assembly of North Carolina do enact:

§ 1. [*Taking Vehicle Without Permission—Penalty*].—If any person shall unlawfully take and carry away any automobile or electrical vehicle of any nature, kind or description whatsoever, the property of another person, secretly and against the will of the owner of said property, with intent to deprive the owner of said property of the special or temporary use of the same, or with the intent to use said property for a special or temporary purpose, the person so offending shall be guilty of larceny, and punished by imprisonment in the state's prison or county jail not less than four months nor more than ten years, in the discretion of the court: *Provided*, this section shall not be construed to repeal any other section for larceny.

§ 2. [*Time of Taking Effect*].—This act shall be in force from and after its ratification.

An Act to provide for the registration and identification of motor vehicles, and to regulate the use of public highways by such vehicles and persons passing such vehicles, and to provide penalties for the violation thereof.

[Act ratified March 6, 1909; Laws 1909, c. 445.]

The General Assembly of North Carolina do enact:

§ 1. [*Definitions—"Motor Vehicles"—"Highway"—"Business Portion"*].—The term and words "motor vehicles," used in this act shall be construed to mean all vehicles propelled by power, other than muscular power, except traction engines and such motor vehicles as run only upon rails or tracks. The term and words "highway" or "public highway" shall be construed to mean any public highway, township, county or state road or any country road, any public street, alley, park, parkway, driving or public place in any city, village or town. The term and words "business portion of any city or village" shall be construed to mean the territory of a city or incorporated village contiguous to a public highway which is at that point either wholly or partially built up with structures devoted to business.

§ 2. [*Registration of Vehicles—Certificates—Seals—Renewals—Fees*].—Every person now owning or hereafter acquiring a motor vehicle, shall, for every vehicle owned by him, file in the office of the secretary of state a statement containing the name and address, with a brief description of the vehicle so owned by him to be registered, including the name of the maker, factory number, style of vehicle

and motor power, on a blank to be prepared and furnished by said secretary of state for that purpose. Upon the filing of said statement, as aforesaid, said secretary of state shall register such motor vehicle in a book or index to be kept for that purpose and assign it a distinctive number, and shall forthwith issue and deliver to the owner of such motor vehicle a certificate of registration, together with a seal, of aluminum or other suitable metal, which said seal shall be circular in form, approximately two inches in diameter, and shall have stamped thereon the words "Registered Motor Vehicle No. North Carolina," with the registration number and any other data deemed necessary by the secretary of state inserted therein, which said seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned. The said certificate of registration shall contain the same words and number as the seal, and shall further contain the name of the owner of the vehicle so registered as aforesaid, his address, the name of maker of the said vehicle, factory number, style and motor power, and the date of registration, which date of registration shall be the day on which the application is received at the office of the secretary of state. Such certificate of registration shall remain in force for one year from and after the first day of July of each year. Applications for renewal of any certificate of registration shall be made to the secretary of state any time within thirty days previous to the date of the expiration of such certificate, and if no application for a renewal is received during the time above mentioned the secretary of state shall cancel such certificate and reissue the number. For the registration and issuing of a certificate and seal a fee of five dollars shall be paid to the secretary of state, and a fee of one dollar for each renewal of the same: Provided, no registration of motorcycles shall be required; provided further, that of the fee of five dollars paid to the secretary of state three dollars shall be paid by the treasurer of the state to the treasurer of the county in which the owner of said automobile resides, to be used for the public roads in said county.

§ 3. [*Transfer of Vehicle—Return of Certificate and Seal*].—Upon the sale of a registered motor vehicle, registered in accordance with the above section, the vendor shall return to the secretary of state within ten days from the date of such sale his said certificate and seal, and such certificate shall be canceled and the number reissued by the secretary of state: Provided, that the vendor may, upon application at the time of returning such certificate and seal, have a new certificate issued to him, containing the original registration number for a motor vehicle described in such application and owned by him and which is not licensed under the law. A fee of one dollar shall be paid to the secretary of state for the issue of such new cer-

tificate, which shall remain in force until the first day of July following the date of issue.

§ 4. [*Display of Number—Lights—Other Numbers*].—In addition to the conspicuous display of the seal, as provided in section two of this act, it shall be the duty of the owner of each and every motor vehicle at all times to have displayed upon the front and rear of the body of such vehicle, in such manner as to be plainly visible, the number assigned to it by the secretary of state, said number to be in Arabic numerals, black on white ground, or white on black ground, and not less than three inches in height, and each stroke to be of a width not less than one-half inch, and also as a part of said number the name of the state in full or abbreviated, and of the same color and on the same ground as the numerals, the letters of the name to be not less than one inch in height. There shall also be displayed upon every motor vehicle in use upon any public highway during the period from one hour after sunset to one hour before sunrise two lamps in the front of said motor vehicle, showing a white light, visible within a reasonable distance in the direction which such vehicle is proceeding, and also a red light in the rear of said motor vehicle and visible for a reasonable distance in the reverse direction: Provided, that it shall be unlawful to display more than one registration number upon the rear of such motor vehicle or a number which does not entitle the holder thereof to operate such motor vehicle upon the public highway of the state.

§ 5. [*Operation Conditioned upon Registration and Display of Number—Fictitious Number*].—No motor vehicle shall be used or operated upon the public highway after July first, one thousand nine hundred and nine, which shall not display thereon a registration seal, and on the rear of said motor vehicle a number as provided in section four of this act, or which shall display thereon a fictitious seal or number or a seal or number belonging to any other vehicle.

§ 6. [*Nonresidents—Passing Through State*].—Nonresident owners or operators of motor vehicles shall be subject to the same requirements and laws as resident owners or operators: Provided, that the nonresident owner of a motor vehicle passing through the State of North Carolina shall not be required to register his vehicle as provided in this act.

§ 7. [*Compliance with Act Required—Driving While Intoxicated, in Race, or on Wager*].—No person shall operate a motor vehicle upon the public highway after July first, one thousand nine hundred and nine, unless such person shall have complied in all respects with the requirements of this act. In no case shall a person operate a motor vehicle in this state when intoxicated, or in a race, or on a bet or

wager, or for the purpose of making a record: Provided, nothing herein contained shall prevent racing on private race courses or tracks.

§ 8. [*Disposition of Fees—Carrying Out Act*].—All fees paid to the secretary of state as provided in this act shall be paid into the state treasury monthly. The secretary of state shall provide all blanks, books and seals necessary to the furthering of this act, securing the same, as far as may be, from the state printer, and all other necessary expenses incurred by him; and necessary extra clerical assistance, not exceeding three hundred dollars per annum, shall be paid by a warrant of the auditor upon the treasurer.

§ 9. [*Speed—General Considerations—Rates*].—No person shall operate a motor vehicle upon a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person or the safety of any property, and shall not, in any event, while upon any highway, run at a higher rate of speed than twenty-five miles an hour, and within the corporate limits of all cities and villages the rate of speed shall not be greater than eight miles an hour in the business portion of any such city or village and not greater than twelve miles an hour in all other portions thereof, subject, however, to the other provisions of this act and to local regulations.

§ 10. [*Speed at Crossways, Curves, Hills, etc.*].—Upon approaching an intersecting highway, a bridge, dam, sharp curve or steep descent, and also in traversing such intersecting highway, bridge, dam, curve or descent, a person operating a motor vehicle shall have it under control and operate at such speed not to exceed five miles an hour, having regard to the traffic then on such highway and the safety of the public.

§ 11. [*Approaching Horses—Speed—Warning—Care*].—Upon approaching a horse or horses or other draft animals, being ridden, led or driven thereon, a person operating a motor vehicle shall slow down to a speed not exceeding eight miles an hour and give reasonable warning of its approach and use every reasonable precaution to insure the safety of such person or animal, and in case of a horse or horses or other draft animals, to prevent frightening the same.

§ 12. [*Stopping on Signal—Stopping Motor—Assistance*].—Any person operating a motor vehicle shall, at request or on signal from a person riding, leading or driving a horse or horses or other draft animals, guide such motor vehicle to the right of the wrought or traveled portion of the highway and immediately bring such motor vehicle to a stop, and if requested shall cause the motor of such vehicle to cease running and to remain stationary and noiseless so long as shall be necessary to prevent accident and insure the safety of others; and it shall also be the duty of any male chauffeur or driver of any motor vehicle, and other male occupants thereof over the age of fif-

teen years, while passing any horse or horses or other draft animals which appear frightened, upon the request of the person in charge of and driving such horse or horses or other draft animals, to give such personal assistance as would be reasonable to insure the safety of all persons concerned and to prevent accident.

§ 13. [*Rules of Road—Meeting—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on a highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, and there being no occasion to stop, as above provided, the person operating such motor vehicle shall reasonably turn the same to the right of the center of the traveled portion of the highway, while the person approaching shall likewise turn from the center of the traveled portion of the highway so as to pass the motor vehicle on the opposite side of the center of the highway to which the motor vehicle has been turned; and any person so operating any motor vehicle shall, at the intersection of a public highway, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left.

§ 14. [*Overtaking Horse-Drawn Vehicle—Assistance*].—If a vehicle drawn by a horse or horses or other draft animals or a motor vehicle be overtaken by any motor vehicle, and the person in charge of such motor vehicle expresses a desire to pass, it shall be the duty of the driver of any such vehicle or motor vehicle so overtaken as aforesaid to turn either to the right or to the left of the center of the wrought or traveled portion of the highway and give the person so making the request an opportunity to pass; but, in passing, the person in charge of such motor vehicle and the other male occupants thereof over the age of fifteen years shall give such assistance as they are able to the occupant or occupants of the vehicle they are passing, if assistance is asked, and in thus passing the chauffeurs, drivers or operators shall use all due care to avoid accidents.

§ 15. [*Accident—Stopping and Disclosing Identity*].—In case of accident to person or property upon any public highway, due to the operation thereon of any motor vehicle, the person operating such motor vehicle shall stop and give such assistance as can be given, and shall, upon request of the person injured or any other person, give such person his name and address and, if not the owner, the name and address of the owner of such motor vehicle, together with the registered number thereof.

§ 16. [*Local Regulations—Speed—Signs*].—Local authorities may, notwithstanding the provisions of this act, make, enforce and maintain such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated in any park or parkway within a city or incorporated village, but in no case to permit a greater

speed than is provided in this act, and as a condition thereto such local authorities must by signs at each entrance of such park and along said parkway, conspicuously indicate the rate of speed permitted or required, and may exclude motor vehicles from any cemetery or grounds used for the burial of the dead.

§ 17. [*Civil Actions Not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from the negligence of the owner or operator or his agent, employee or servant of any such motor vehicle, or resulting from the negligent use of the highway by them or any of them.

§ 18. [*Penalties—Second and Third Offenses*].—Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and anyone who shall be convicted thereof or who shall plead guilty to any complaint for the violation thereof shall be punished by a fine not exceeding fifty dollars and costs of prosecution or by imprisonment not exceeding twenty days, or both; for the second offense or any subsequent offense he shall be punished by a fine not exceeding fifty dollars and costs of prosecution or by imprisonment for not exceeding thirty days, or both, and upon conviction for the third offense the certificate of such owner shall be canceled for the space of six months.

§ 19. [*Jurisdiction of Prosecutions*].—All police justices of any city or justices of the peace of any township where any such violation shall occur shall have jurisdiction to hear, try and pass sentence for any and all violations of any of the provisions of this act.

§ 20. [*Arrest of Offenders—Trial—Bail*].—Any police officer of any city, any marshal, deputy marshal or watchman of any incorporated village or any sheriff or deputy sheriff of any county or any constable of any township shall have full power and authority within the limits of their jurisdiction to arrest any person known personally to any such officer or upon the sworn information of a credible witness to have violated any of the provisions of this act, and to immediately bring such offender before any justice of the peace or officer having jurisdiction, and any such person so arrested shall have the right of an immediate trial and all other rights given to any person arrested for having committed a misdemeanor, and, if such hearing cannot then be had, be released from custody on giving his personal undertaking to appear in answer for such violation at such time and place as shall then be indicated, secured by the deposit of a sum equal to double the maximum fine for the offense with which he is charged or in lieu thereof by leaving the motor vehicle being operated by such person with such officer, or, in case such officer is not accessible, be forthwith released from custody on giving his name and address to the officer making such arrest and depositing with such officer a

sum equal to double the maximum fine for the offense for which such arrest is made, or, in lieu thereof, by leaving the motor vehicle being operated by such person with such officer: Provided, that in such case the officer making such arrest shall give a receipt in writing for such sum or vehicle and notify such person to appear before the most accessible justice of the peace or other officer having jurisdiction (naming him) on that or the following day, specifying the place and hour. In case security shall be deposited, as in this subdivision provided, it shall be returned to the person depositing forthwith, on such person being admitted to bail.

§ 21. [*List of Vehicles Registered—Distribution—Price*].—The secretary of state shall cause to be printed each and every year a list of all motor vehicles registered under the provisions of this act, and shall mail a copy of said list to the sheriff of every county and mayor of every town and city requesting a copy: Provided further that a copy of said list shall be furnished upon application to any person requesting same upon the payment of one dollar. Said list shall contain the names of all persons registering vehicles, their place of residence, the make of vehicle and the registered number of the same.

§ 22. [*Acts Repealed*].—That all laws and clauses of laws in conflict with this act are hereby repealed.

§ 23. [*Time of Taking Effect—Application to New Hanover County*].—That this act shall be in force from and after its ratification, but shall not apply to New Hanover county.

[Note: Special provisions exist in respect of certain counties.]

NORTH DAKOTA.

ACT OF FEB. 23, 1905.

- § 1. Speed.
2. Signaling Device—Sounding.
3. Muffler—Lights.
4. Rules of Road.

ACT OF MARCH 13, 1909.

- § 1. Stopping on Signal.
2. Penalties—Civil Liability.

An Act regulating the operation of automobiles on the public roads, highways and streets within the State of North Dakota, and providing penalties for the violation thereof.

[Act approved Feb. 23, 1905; Laws 1905, c. 49.]

Be it enacted by the Legislative Assembly of the State of North Dakota:

§ 1. [*Speed*].—No person, driver or operator in charge of any automobile or motorcycle on any public road, highway or street within the state shall drive, operate or move or permit to be driven, operated or moved any automobile or motorcycle at a speed faster than eight miles per hour within any town, village or city within this state, or at a rate faster than twenty-five miles per hour on any public road or highway outside of any town, village or city.

§ 2. [*Signaling Device—Sounding*].—Every automobile or motorcycle shall be provided with a bell or horn which when operated outside of a city or village, shall be rung or blown by the driver or operator when approaching from behind a vehicle propelled by animals so as to give timely notice of the approach of said motor vehicle.

§ 3. [*Muffler—Lights*].—Every automobile or motorcycle using gasoline, steam, or any other substance as a motive power shall use a muffler, so-called, when operated, driven or moved upon the streets of any town, village or city within the state, or when meeting or passing animal propelled vehicles on any public road or highway within the state. Every such automobile or motorcycle shall also be provided with lights, the automobile to carry not less than two lights, in front of such machine, one of which to be on either side, and the motorcycle to carry at least one light.

§ 4. [*Rules of Road*].—The driver or operator of any automobile or motorcycle shall be governed by the usual law of the road by turning to the right in meeting vehicles, teams or persons moving or headed in an opposite direction, and by turning to the left when passing vehicles, teams or persons moving or headed in the same direction.

An Act to amend sections 2173 and 2174 of the Revised Codes of the State of North Dakota, for 1905, relating to automobiles.

[Act approved March 13, 1909; Laws 1909, c. 42.]

Be it enacted by the Legislative Assembly of the State of North Dakota:

§ 1. [*Stopping on Signal*].—Section 2173 of the revised codes of the State of North Dakota of 1905, is hereby amended to read as follows:

§ 2173. The driver or operator in charge of any automobile or motorcycle on any public road or highway outside the limits of any town, village or city within the state, when signalled by the driver

of any vehicle propelled by horses or other animal power, which signal shall be given by raising the hand or in such other manner as to attract attention, shall stop said automobile or motorcycle until the vehicle propelled by said animal power has passed; and if approaching said vehicle from behind, the driver or operator in charge of said automobile or motorcycle shall stop for a reasonable time, and the driver of said animal propelled vehicle shall, as soon as the condition of the road will permit, turn to the right and allow at least one-half of the road on his left for the passage of said automobile.

§ 2. [*Penalties—Civil Liability*].—Section 2174 of the revised codes of the State of North Dakota of 1905 is hereby amended to read as follows:

§ 2174. Any person who shall violate any provisions of this article shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars and not more than fifty dollars, and if default is made in the payment of such fine such person or persons shall be committed to the county jail until such fine is paid; conditioned, however, that each day's service in jail shall be equal to two dollars of such fine, and the person so offending shall be liable for damages in a civil action to any person who shall have been injured in person or property by reason of such violation of this article.

OHIO.

ACT OF MAY 11, 1908.

- § 1. "Motor Vehicle" Defined.
2. "Local Authorities" Defined.
3. "Chauffeur" Defined.
4. "State" Defined.
5. "Owner," and "Person Acquiring" Defined.
6. Registration of Vehicles—Fees—Application.
7. Number—Certificate—Form.
8. Record of Registrations—County Lists.
9. Display of Number.
10. Plates or Markers—Form.
11. Registration by Manufacturers and Dealers.
12. Equipment—Brakes—Signaling Device—Lights—Illumination of Number.
13. Nonresidents—Vehicles Registered Elsewhere.
14. Speed—General Considerations.
15. Speed—Rates—Local Regulation.

- § 16. Stopping on Signal—Stopping in Case of Accident—Disclosing Identity.
17. Registration of Operators—Application—Fee.
 18. Record of Registrations—County Lists.
 19. Badges—Display.
 20. Transfer of Badge—Use of Another's Badge.
 21. Operation Conditioned upon Registration of Driver—Nonresidents.
 22. Driving Vehicle without Owner's Written Consent.
 23. Local Regulations—Races.
 24. Penalties—Violation of Sections 6, 9, 11, or 12.
 25. Violation of Sections 14, 15, or 16.
 26. Display of Illegitimate Number—Penalty.
 27. Violation of Section 17.
 28. Violation of Sections 19, 20, or 21.
 29. Violations of Sections 14, 15, or 16.
 30. Violation of Section 22.
 31. Record of Convictions—Distribution of Lists.
 32. Prosecutions—Trial—Bail.
 33. Disposition of Registration Fees—Civil Actions—Process.
 34. Expenditure of Revenues Received Hereunder.
 35. Title of Act—Time of Taking Effect.
 36. Rules of Road.
 37. Acts Repealed Hereby.

An Act to provide for the registration, identification and regulation of motor vehicles.

[Act approved May 11, 1908; Laws 1908, pp. 538-546.]

Be it enacted by the General Assembly of the State of Ohio:

§ 1. [*"Motor Vehicle" Defined*].—That the term "motor vehicle" as used in this act, except where otherwise expressly provided, shall include all vehicles propelled by any power other than muscular power, except motor bicycles, motorcycles, motor trucks or drays used exclusively for commercial purposes, road rollers, traction engines, fire engines, police patrol wagons, ambulances and such vehicles as run only upon rails or tracks.

§ 2. [*"Local Authorities" Defined*].—The term "local authorities" shall include all officers of counties, cities, villages or towns, as well as all boards, committees, and other public officials of such counties, cities, villages or towns.

§ 3. [*"Chauffeur" Defined*].—The term "chauffeur" shall mean any

person operating a motor vehicle for hire, or as the employee of the owner thereof.

§ 4. [*"State" Defined*].—The term "state" as used in this act, except where otherwise expressly provided, shall include the territories and the federal districts of the United States.

§ 5. [*"Owner" and "Person Acquiring" Defined*].—The term "owner of" or "person hereafter acquiring" shall include any person renting a motor vehicle or the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.

§ 6. [*Registration of Vehicles—Fees—Application*].—Every owner of a motor vehicle or vehicles, which shall be operated or driven upon the public roads or highways of this state, shall annually for each motor vehicle owned or acquired, except as herein otherwise provided, cause to be filed by mail or otherwise, upon the payment of a registration fee of five dollars for such gasoline or steam motor vehicle, and a registration fee of three dollars for each electric motor vehicle, in the office of the secretary of state, an application for registration, containing: a brief description of the vehicle to be registered, including the name of the manufacturer, the manufacturer's number of the motor vehicle, if number there be, the character of the motor power, and the amount of such motor power stated in figures of horse power; the name and address of the owner of such motor vehicle, and the name of the county of the state in which he resides. But any person to whom an annual 1908 license has been issued by any municipality of this state prior to the time when this act shall take effect, shall be exempt from the provisions of sections 6, 7, 8, 9, 10 and 11 of this act up to and until January 1, 1909.

§ 7. [*Number—Certificate—Form*].—Upon the filing in the office of the secretary of state of an application as hereinbefore provided, the secretary of state or his duly authorized agent shall assign to such motor vehicle as described in such application a distinctive number, and shall issue to the owner of such motor vehicle, as it is described in the application filed, a certificate of registration, which certificates shall be in form of a card, which may be carried in the pocket and which certificate shall contain the distinctive number so assigned to such motor vehicle, the name and the address of the owner, a brief description of such motor vehicle, stating the name of the manufacturer, the manufacturer's number, if number there be, the character of the motor power, and the amount of such motor power stated in figures of horse power.

§ 8. [*Record of Registrations—County Lists*].—Upon the receipt of an application for registration of a motor vehicle as hereinbefore provided the secretary of state shall thereupon file such application in

his office, and register such motor vehicle, with the name and address of the owner thereof, and the facts stated in the application, in a book or index to be kept for the purpose, under the distinctive number and identification mark assigned to such motor vehicle by the secretary of state, and issue to the applicant a certificate as hereinbefore provided. The original book or index in which the motor vehicles are registered as hereinbefore provided, shall be kept in the office of the secretary of state, and shall be open to the inspection of any person during reasonable business hours. An exact, full and accurate list of registered motor vehicles and their owners, shall be furnished by the secretary of state to the clerk of every county in the state, and such lists shall be kept as public records, in books to be furnished by the secretary of state, in the office of each county clerk, and the secretary of state shall further furnish to the county clerk of each county, once each month, copies of the additional applications for registration received, which shall be entered by the county clerk on the list kept by him as hereinbefore provided.

§ 9. [*Display of Number*].—That every motor vehicle, registered in accordance with the provisions of this act, shall have the distinctive number and registration mark assigned to it by the secretary of state and furnished by the secretary of state, in accordance with the provisions of section 10 hereof, as hereinbefore provided, displayed on the front and rear of such motor vehicle, as an identification mark, securely fastened, so as not to swing.

§ 10. [*Plates or Markers—Form*].—That such distinctive number as an identification mark shall consist of a blue placard, as the background, upon the face of which shall appear the distinctive number assigned to such motor vehicle as hereinbefore provided, in white Arabic numerals, such numerals to be not less than four inches long, nor each stroke less than one-half inch in width, such number to be followed on the placard by the initial or abbreviation of the name of this state in white letters, each letter to be at least two inches in height, and each stroke to be at least one-half an inch in width.

§ 11. [*Registration by Manufacturers and Dealers*].—That in the case of a manufacturer or dealer in motor vehicles such manufacturer or dealer shall make application for registration in the same manner as hereinbefore provided, of each gasoline, steam, electric or other make of motor vehicle manufactured or dealt in by such manufacturer or dealer, whereupon, upon the payment of a registration fee of ten dollars (\$10.00) there shall be assigned to such style or type of motor vehicle a distinctive number as an identification mark, which shall be carried and displayed by every motor vehicle of such style or type registered in the same manner as hereinbefore provided, while such

vehicle is being operated on the public highway, and until such vehicle shall be sold or let for hire, and there shall be issued to such manufacturer or dealer a certificate of registration as hereinbefore provided for each gasoline, steam, electric or other make of motor vehicle, and as many certified copies thereof as may be desired, upon the payment of a fee of two dollars (\$2.00) for each such copy.

§ 12. [*Equipment—Brakes—Signaling Device—Lights—Illumination of Number*].—Every motor vehicle operated and driven upon the public roads or highways of this state shall be provided with adequate brakes sufficient to control the vehicle at all times and a suitable and adequate bell, horn or other device for signalling, and shall during the period from thirty minutes after sunset to thirty minutes before sunrise, display three white lights, two on the front and one on the rear of each motor vehicle, the rays of which rear lamp shall shine upon and illuminate each and every part of the aforesaid distinctive number borne upon that part of the motor vehicle, the light of which front lamp shall be visible at least two hundred feet in the direction in which said motor vehicle is proceeding, and every motor vehicle shall also display, in addition to the foregoing, a red light on the rear thereof.

§ 13. [*Nonresidents—Vehicles Registered Elsewhere*].—The provisions of the foregoing sections shall not apply to motor vehicles owned by nonresidents of this state, provided that the owners thereof shall have complied with the provisions of the law of the state of their residence in regard to motor vehicles, and shall comply with such law while operating and driving a motor vehicle upon the public roads or highways of this state: Provided, however, that the foregoing sections of this act are substantially in force as law in the state of the residence of the owner of such motor vehicle, otherwise all provisions of this act shall apply.

§ 14. [*Speed—General Considerations*].—No person shall operate a motor vehicle on the public roads or highways of this state at a rate of speed greater than is reasonable or proper, having regard to width, traffic and the use of the highway and the general and usual rules of the road or so as to endanger the property or life or limb of any person, or the safety of any property.

§ 15. [*Speed—Rates—Local Regulation*].—In no event shall any automobile, motor cycle or other motor vehicle be operated at a greater rate of speed than 8 miles an hour in the business and closely built up portions of any municipality in this state, no more than 15 miles an hour in the other portions of such municipalities, no more than 20 miles outside of such municipalities, which rates of speed shall not be diminished nor prohibited by any ordinance, rule or regulation of any municipality, board or other public authority, but munici-

palities may by ordinance define what are the business and closely built up portions of such municipalities.

§ 16. [*Stopping on Signal—Stopping in Case of Accident—Disclosing Identity*].—Any operator of a motor vehicle, upon meeting or overtaking a horse-drawn vehicle, or person on horseback, shall slow down and stop said motor vehicle when signaled so to do and shall remain in such condition until said horse-drawn vehicle or person on horseback shall have safely passed. Provided, however, that such signal to stop shall be given in good faith and under the necessity of the circumstances, and only so often and for such length of time as shall be required to permit said vehicles to safely pass, whether approaching from the front or the rear. In case of accident to a person or property on the public highway, due to the operation thereon of a motor vehicle, the person operating such vehicle shall stop, and upon request of a person injured, or any person present, give such person his name and address, and, if not the owner, the name and address of such owner.

§ 17. [*Registration of Operators—Application—Fee*].—Every person hereafter desiring to operate a motor vehicle as a chauffeur, shall file in the office of the secretary of state, upon the payment of the registration fee of two dollars (\$2.00), an application for registration which shall state: The name and address of the applicant, and that he is competent to operate a motor vehicle; the trade name and the kind of motor power of the vehicles or vehicle he is competent to operate; and whether or not the applicant has ever been previously convicted of a violation of any of the provisions of this act, giving the date and place of such conviction, and the provisions of this act violated, if any.

§ 18. [*Record of Registrations—County Lists*].—Upon receipt of such an application, the secretary of state shall thereupon file the same in his office in a book or index, which shall be kept in the same manner as the book or index for the registration of motor vehicles, as hereinbefore provided, and the secretary of state shall forward a list of such registered chauffeurs, and such additions thereto, as shall be made from time to time, to the county clerk of every county in the state, in the same manner as hereinbefore provided in the case of registered motor vehicles, and such lists shall be kept as public records in the county clerk's office in every county in the state.

§ 19. [*Badges—Display*].—The secretary of state shall forthwith, upon the registration of such chauffeur, as hereinbefore provided, issue to such chauffeur a badge of aluminum or other suitable metal which shall be oval in form and the greater diameter of which shall not be more than two inches; and such badge shall have stamped thereon the words, "Registered Chauffeur No. ———; State of

Ohio, ———;” with the registration number inserted thereon, which badge shall thereafter be worn by such chauffeur, fastened upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public roads or highways of this state.

§ 20. [*Transfer of Badge—Use of Another's Badge*].—No chauffeur having registered as hereinbefore provided, shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle upon the public roads or highways of this state wear any chauffeur's badge, belonging to another person, fictitiously representing himself to be a registered chauffeur.

§ 21. [*Operation Conditioned upon Registration of Driver—Non-residents*].—No person shall operate a motor vehicle as a chauffeur on the public roads or highways of this state, subsequently to thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this section; provided, however, that a non-resident chauffeur, who has registered under the provisions of the law of the state of his residence, which are substantially similar to the provisions of this section, shall be exempt from registration under this section; provided, however, that he wear a badge assigned to him in the state of his residence, in the same manner as hereinbefore provided, and comply with all the other provisions of this section.

§ 22. [*Driving Vehicle Without Owner's Written Consent*].—No chauffeur or other person shall drive or operate or cause to be driven or operated, any motor vehicle upon any public road or highway of this state in the absence of the owner of such motor vehicle, without such owner's written consent.

§ 23. [*Local Regulations—Races*].—No local authority shall have any power to make any ordinance, by-law or resolution regulating the speed of motor, provided, however, that local authorities may set aside for a given time a specific public highway for speed tests or races.

§ 24. [*Penalties—Violation of Sections 6, 9, 11 or 12*].—The violations of sections 6, 9, 11 and 12 of this act shall be punishable by a fine not exceeding twenty-five dollars (\$25.00) for a first offense, by a fine not less than twenty-five dollars (\$25.00) and not exceeding fifty dollars (\$50.00) for a second offense, and by a fine not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00) or imprisonment for not more than thirty days for a third and subsequent offense.

§ 25. [*Violation of Sections 14, 15, or 16*].—Any violation of sections 14, 15 and 16 of this act shall be deemed prima facie evidence of a misdemeanor punishable by a fine not exceeding twenty-five dollars (\$25.00) for a first offense, and by a fine not less than twenty-five dollars (\$25.00) and not exceeding fifty dollars (\$50.00) for a

second offense, and by a fine not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00) or imprisonment for not more than thirty days for a third offense, and for any subsequent offense, within one year, imprisonment for not less than ten days, nor more than thirty days.

§ 26. [*Display of Illegitimate Number—Penalty*].—Any person operating or driving a motor vehicle on the highways of this state, which shall display thereon a distinctive number or identification mark, belonging to any other motor vehicle or one which is fictitious, shall be deemed guilty of a misdemeanor, which shall be punishable by a fine of twenty-five dollars (\$25.00) for a first offense and for any subsequent offense by a fine not less than fifty dollars (\$50.00) or more than three hundred dollars (\$300.00) or imprisonment for sixty days or both.

§ 27. [*Violation of Section 17*].—Any violation of section 17, of this act, by a person not registered as a chauffeur, as hereinbefore provided, shall be punishable by a fine of not more than fifty dollars (\$50.00) or the suspension of the right to apply for registration as a chauffeur, under this act, for one year or both, and for a subsequent or second offense by a fine of not more than one hundred dollars (\$100.00) and in addition to the suspension of the right to apply for registration as a chauffeur for a time not less than one year or more than two years.

§ 28. [*Violation of Sections 19, 20, or 21*].—Any violation of sections 19, 20 or 21 of this act, by a chauffeur, registered as hereinbefore provided, shall be punishable by a fine not exceeding fifty dollars (\$50.00), or by the suspension of the right to operate a motor vehicle as a chauffeur under the provisions of this act for a period of six months or both, and for a second or subsequent offense by a fine of not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00) and in addition the suspension of the right to operate a motor vehicle as a registered chauffeur under the provisions of this act for one year, and for such further time as shall be fixed by the trial court.

§ 29. [*Violation of Sections 14, 15 or 16*].—Any violation of sections 14, 15 and 16 of this act by a registered chauffeur shall be a misdemeanor and punishable as provided in section 25 and in addition thereto a suspension of the right to operate a motor vehicle as a registered chauffeur as hereinbefore provided for thirty days for a second offense and for a period not less than one year for a third offense, in which case the registration of such chauffeur shall become null and void.

§ 30. [*Violation of Section 22*].—Any person violating any of the provisions of section 22 of this act shall be deemed guilty of a mis-

demeanor, and upon conviction shall be fined a sum not exceeding two hundred dollars (\$200.00) or imprisonment for a period not exceeding six (6) months or both in the discretion of the court.

§ 31. [*Record of Convictions—Distribution of Lists*].—Upon the conviction of any person for a violation of any of the provisions of this act, the magistrate or other judicial officer before whom the proceedings are held shall immediately certify the facts of the case and the character of the punishment to the secretary of state, who shall enter the same, in the case of an owner or chauffeur either in the indices of registered motor vehicles or registered chauffeurs as the case may be, opposite the name of the person convicted, as in the case of any other person, in an index of offenders to be kept for such purposes, in alphabetical order. The secretary of state shall then send notice of the conviction and the punishment of all such persons whether owners, chauffeurs, or other persons, to the county clerk of every county in the state, who shall enter the same upon the lists of registered motor vehicles or registered chauffeurs as the case may be, which are kept by him as hereinbefore provided, or upon a list of other offenders which he shall maintain in his office as a public record in the same manner as the registered lists of motor vehicles or chauffeurs as hereinbefore provided for, and shall furnish copies of such lists to the magistrates or other judicial officers of his county by whom the offenses against the provisions of this act are punishable.

§ 32. [*Prosecutions—Trial—Bail*].—In case any person shall be taken into custody because of any violation of any of the provisions of this act, he shall forthwith be taken before any magistrate or justice of the peace in any city or village or county, and be entitled to an immediate hearing; and if such hearing cannot be had he shall be released from custody on giving his personal undertaking to appear in answer for such violation at such time or place as shall then be indicated, secured by a deposit of a sum equal to the maximum fine for the offense with which he is charged, or in lieu thereof, in case the person taken into custody is the owner, by leaving the motor vehicle, and in case the person taken into custody is not the owner, by leaving the motor vehicle with a written consent given at the time by the owner, who must be present, with such judicial officer; or in any case such judicial officer is not accessible he shall forthwith release from custody by giving his name and address to the person making the arrest and depositing with such arresting officer a sum equal to the maximum fine for the offense for which such arrest is made, or in lieu thereof, in case the person arrested is the owner by leaving the motor vehicle, and in case the person is not the owner, by leaving the motor vehicle with a written consent given at the time by the owner, who must be present; provided, that in such case the officer making the arrest

shall give a receipt in writing for such sum or vehicle deposited and notify such persons to appear before the most accessible magistrate, naming him, specifying the date, place and the hour. In case such undertaking with security or deposit shall not be made by an owner or other person taken into custody, the provisions of law in reference to bail in cases of misdemeanors shall apply.

§ 33. [*Disposition of Registration Fees—Civil Actions—Process*].—The revenues derived from the registration fees provided for herein shall be applied by the secretary of state toward defraying the expenses incident to the carrying out and enforcement of the provisions of this act, and any surplus thereof shall be paid by the secretary of state into the state treasury, monthly. All actions for injury to the person or property caused by the negligence of the owner of any automobile included within the provisions of this act, may be brought by the party injured against the owner of such automobile in the county wherein such injured party resides. In case such action is begun, a summons against any defendant or defendants shall be issued to the sheriff of any county within the state of Ohio, wherein such defendant or defendants reside, to be served upon such defendant or defendants as in other civil actions, any law to the contrary providing for the service of summons in civil actions notwithstanding.

§ 34. [*Expenditure of Revenues Received Hereunder*].—All moneys coming into the state treasury, pursuant to this section, shall be there maintained as a separate fund for the improvement, maintenance and repair of the public roads and highways of this state, and shall be apportioned as the state highway fund is apportioned by law.

§ 35. [*Title of Act—Time of Taking Effect*].—This act shall be known as the "Automobile Law," and shall take effect and be in force from and after thirty days after its approval by the governor.

§ 36. [*Rules of Road*].—That section 3490 of the Revised Statutes be amended so as to read as follows:

§ 3490. All persons driving carriages or vehicles of any description on any public turnpike, road or highway of this state, shall, on meeting carriages or vehicles of any description, keep to the right so as to leave half of the road free, and all persons riding on horseback, or on bicycle, tricycle, tandem bicycle, locomobile, automobile, or motor vehicle, shall, on meeting carriages or vehicles of any description, keep to the right so as to leave two-thirds of the road free.

§ 37. [*Acts Repealed Hereby*].—That section 3490 approved April 23, 1904, and an act entitled, "An act to compel owners and operators of motor vehicles to register with the secretary of state," passed April 2, 1906, be and the same are hereby repealed.

OREGON.

ACT OF FEB. 21, 1905.

- § 1. Operation of Vehicles Conditioned upon Compliance Herewith.
2. Registration of Vehicles.
3. Record of Registrations.
4. Fee.
5. Display of Number.
6. Nonresidents—Vehicles Registered Elsewhere.
7. Lights—Display of Number.
8. Muffler—Cutting Out—Brakes—Law of Road.
9. Approaching Horses—Care—Stopping on Signal—Necessity for Forward Movement.
10. Speed—Rates.
11. Speed—General Considerations.
12. Arrest of Offenders—Trial—Bail.
13. Penalties.
14. Acts Repealed Hereby.

An Act to regulate the use of Automobiles on the County Roads within the State of Oregon.

[Act filed Feb. 21, 1905; Laws 1905, c. 136.]

Be it enacted by the People of the State of Oregon:

§ 1. [*Operation of Vehicles Conditioned Upon Compliance Herewith*].—No automobile, motor vehicle or motorcycle shall be used or operated on any public high road, highway, park or parkway, street, or avenue within this state, until the owner shall have complied with sections 2, 4 and 5 of this act.

§ 2. [*Registration of Vehicles*].—The owner of every automobile, motor vehicle, or motorcycle shall file in the office of the secretary of state a statement of his name and address, together with a brief description of every such vehicle owned by him, and shall obtain from said secretary of state a numbered certificate for each of said vehicles, which certificate shall state the name of the owner of such vehicle and that he has registered in accordance with the provisions of this act. These certificates shall be numbered consecutively, beginning with 1.

§ 3. [*Record of Registrations*].—The secretary of state shall keep a record of all such statements and of all certificates issued by him with their numbers.

§ 4. [*Fee*].—The fee for issuing such certificates shall be \$3.00.

§ 5. [*Display of Number*].—The number of each certificate, preceded by the letters "Ore," shall be displayed upon the back of such automobile, motor vehicle or motorcycle in light-colored Arabic numerals, at least three inches high, on a dark background.

§ 6. [*Nonresidents—Vehicles Registered Elsewhere*].—The provisions of the preceding sections shall not apply to automobiles, motor vehicles or motorcycles owned and operated by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners of automobiles, motor vehicles or motorcycles in force in the state, territory, or federal district of their residence, and the registration number showing the initial of such state, territory, or federal district shall be displayed on such vehicle substantially as provided by section 5 of this act.

§ 7. [*Lights—Display of Number*].—Every automobile, motor vehicle or motorcycle, when driven on any public road, highway, park or parkway, street or avenue, within this state, shall during the hours of darkness, have fixed upon some conspicuous part thereof at least one lighted lamp, showing white to the front and red to the rear, and shall have the license or certificate number of said vehicle painted in dark Arabic numerals across the white glass in said lamp.

§ 8. [*Muffler—Cutting Out—Brakes—Law of Road*].—Every automobile, motor vehicle, or motorcycle using gasoline as motive power shall use the "muffler," so called, and the same shall not be cut out or disconnected within the limits of any city or village within this state. Every automobile, motor vehicle, or motorcycle shall be provided with good and efficient brakes. The driver or operator of every automobile, motor vehicle, or motorcycle shall be governed by the usual law of the road by turning to the right in meeting vehicles, teams, and persons moving or headed in an opposite direction and by turning to the left in passing vehicles, teams and persons moving or headed in the same direction.

§ 9. [*Approaching Horses—Care—Stopping on Signal—Necessity for Forward Movement*].—Every person having control or charge of any automobile motor vehicle or motorcycle, whenever upon any public street or way, and approaching any vehicle drawn by a horse or horses or any horse upon which any person is riding, shall operate and manage and control such automobile, motor vehicle, or motorcycle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses, and to insure the safety and protection of any person riding or driving the same. And if such horse or horses appear frightened the person in control of such motor vehicle shall reduce its speed, and, if requested by signal or otherwise by the driver of such horse or horses, shall not proceed further toward such animal unless such movement be necessary

to avoid accident or injury, or until such animal appears to be under the control of its rider or driver.

§ 10. [*Speed—Rules*].—No person, driver, or operator in charge of any automobile, motor vehicle, or motorcycle on any public road, highway, park or parkway, street, or avenue within the state shall drive, operate, or move, or permit the same to be driven, operated, or moved at a rate of speed faster than eight miles an hour within the thickly-settled or business portion of any village or city within this state, nor faster than eight miles an hour in the country when within one hundred yards of any vehicle drawn by horse or horses, nor outside of such thickly-settled or business portion of any city or village on any public road, highway, park or parkway, street, or avenue at a rate of speed faster than (1) one mile in (2½) two and one-half minutes, nor over any crossing or crosswalk within the limits of any city or village at a rate faster than one mile in (15) fifteen minutes when any person is upon the same.

§ 11. [*Speed—General Considerations*].—No person driving or in charge of any automobile, motor vehicle, or motorcycle on any highway, townway, public street, avenue, driveway, park or parkway shall drive the same at any speed greater than is reasonable and proper, having regard for the traffic and use of the way by others, or so as to endanger the life or limb of any person; and racing any such vehicle on any such ways or parks as is hereby forbidden.

§ 12. [*Arrest of Offenders—Trial—Bail*].—Any proper officer who shall arrest the owner or driver of an automobile, motor vehicle, or motorcycle for an infraction of any part of this act shall take said person immediately before a magistrate and said magistrate shall hear said case at once, or, upon request of defendant and depositing \$50 as bail, he shall adjourn said hearing for a time not less than twenty-four hours nor more than five days. If it be impossible to find a magistrate within a reasonable time from said arrest, then the arresting officer shall accept bail in the sum of \$50 for the appearance of the defendant at the proper time.

§ 13. [*Penalties*].—The violations of any of the provisions of this act shall be deemed a misdemeanor, punishable by a fine not exceeding \$25 for the first offense, nor exceeding \$50 for the second offense, nor exceeding \$100 for any succeeding offense.

§ 14. [*Acts Repealed Hereby*].—All acts and parts of acts inconsistent herewith or contrary hereto are, so far as they are inconsistent or contrary, hereby repealed.

PENNSYLVANIA.

ACT OF APRIL 27, 1909.

- § 1. Registration of Vehicles Required.
2. Application—Fees—Tags—Nonresidents—Designation of Resident to Receive Process.
3. Display of Number—Mode—Illumination—Other Numbers—Loss of One Tag.
4. Drivers Under Eighteen Years of Age—License.
5. Driver's License—Application—Fee—Badge—Display.
6. License and Registration—Duration—Transfer—Firms and Corporations—Transfer of Vehicle.
7. Registration by Manufacturers and Dealers.
8. Persons Authorized to Register Vehicles and Grant Licenses—Fee.
9. Driving While Intoxicated—Penalties.
10. Operation Under Another Number—Using Without Permission—Penalties.
11. Loss of Tags or Badge.
12. Equipment—Brakes—Signaling Device—Sounding—Lights.
13. Sounding Signals—Approaching Others—At Crossways—Signs—Stopping on Signal—Stopping Motor—Stopping and Disclosing Identity in Case of Accident.
14. Speed—Regard to Highway—Local Regulations—Passing Street Cars.
15. Local Regulations Nullified—Speed in Parks—No Highways to Be Closed.
16. Exhibition of Registration Certificate or License—Information as to Identity of Driver or Owner.
17. Arrest without Warrant—Bail.
18. Penalties—Mode of Collection—Nonpayment—Trial by Jury—Second or Third Offense—Appeals.
19. Suspension or Revocation of Registration or License.
20. Definitions—"Motor Vehicle"—"Motorcycle."
21. Disposition of Fees.
22. Disposition of Fines—Statements of Sums Collected.
23. Proof of Identity of Driver—Registration Number.
24. Civil Actions—Process—Arrest of Offenders—Bail.
25. Acts Repealed Hereby.

An Act relating to motor vehicles; regulating their speed upon the public streets and highways of the Commonwealth of Pennsylvania;

providing for their registration, and the licensing of operators, by the State Highway Department; establishing the rights of motor-vehicles upon the public highways, with relation to other vehicles; regulating the service of process and of proceedings in actions for damages arising therefrom; prescribing the penalties for violations of the provisions of this act, and providing for the disposition of fines imposed thereunder.

[Act approved April 27, 1909; Laws 1909, Act No. 174.]

§ 1. [*Registration of Vehicles Required*].—Be it enacted, &c., that except as hereinafter provided, no motor vehicle shall be operated or driven upon any public street or highway in any city, borough, township, or county in this commonwealth, until the said motor vehicle shall have been registered with the state highway department of this commonwealth.

§ 2. [*Application — Fees — Tags — Nonresidents — Designation of Resident to Receive Process*].—Application for the registration of motor vehicles shall be made to the state highway department, or to a lawful agent appointed by the highway commissioner. The application shall contain the name, place of residence, and correct post-office address of the owner; with a brief description of the motor vehicle, stating the name of the maker, the manufacturer's number, the character of the motive power, and the rated horse power. The said application shall be made upon a blank provided for the purpose by the state highway department. It shall be signed by the owner, and be verified by oath or affirmation. Upon receipt of the application, and a fee of five dollars (\$5.00) for motor vehicles of less than twenty horse power, ten dollars (\$10.00) for motor vehicles of twenty horse power or more, and less than fifty horse power, and fifteen dollars (\$15.00) for motor vehicles of fifty horse power or over, or in the case of a motorcycle, two dollars (\$2.00), the state highway department shall register the said motor vehicle or motorcycle in a book to be kept for that purpose; and shall issue to the owner a registration certificate, and two (2) number tags having thereon the registration number, the figures of which shall be not less than five (5) inches in height, the maker's number of the car, the abbreviated name of the state, and the year: provided, however, that nonresidents of this commonwealth shall be exempt for a period of ten (10) days from the provisions of this section, if they have complied with the requirements of the state in which they reside, and display upon their motor vehicle number tags that indicate the state by which they are issued and their register number; provided, further, that this privilege shall not apply to residents of states which do not extend similar privileges to residents of this commonwealth; provided, further, that motor-

cycles under this act, in lieu of the specific form of tag or tags as required herein, shall be required to have painted or attached on the rear mud-guard of such motorcycles the registration number, in letters and figures of not less than three inches in height and not less than three-eighths of an inch in width, which shall be displayed in some conspicuous color or design other than that of which the said motorcycle is painted; but no metal sign shall be required in order that the said letters and figures can be plainly readable. The manner of numbering said motorcycles shall be regarded as a compliance with the terms of this act, as though a tag or tags had actually been furnished and supplied by the said highway department. Any neglect or failure to carry out the terms or provisions of this section as to numbers shall be construed and regarded as a violation of this act, with the same force and effect as though the provisions herein mentioned in regard to tag or tags had been violated. Applicants for registration or license who reside outside of this state shall, in addition to the above requirements, designate in their application a resident of this state as their authorized agent upon whom process may be served.

§ 3. [*Display of Number—Mode—Illumination—Other Numbers—Loss of One Tag*].—No motor vehicle, except motorcycles, shall be operated upon any public street or highway unless the number tags are displayed conspicuously one on the front and the other on the rear of the motor vehicle, in such manner that they may be easily read. They shall at all times be parallel to the axles of the motor vehicle, and shall be kept free from oil, grease, or dirt, or other substances likely to impair their legibility; and between one hour after sunset and one hour before sunrise the rear number tag shall be illuminated, so that the number can be plainly distinguished. Not more than one set of number tags shall be displayed upon any motor vehicle, and, except as provided in section two for nonresidents, no number tag shall be displayed other than that issued by the state highway department. No owner or operator of a motor vehicle shall be subject to fine or arrest when one number tag is missing: provided, he make affidavit that the same has been lost or removed without his knowledge and consent, within one week, and that application be promptly made for new tags.

§ 4. [*Drivers Under Eighteen Years of Age—License*].—No person under eighteen years of age, whether the owner of a motor vehicle or not, shall operate any motor vehicle, without first obtaining from the state highway department a special license to do so. Such licenses shall be granted only when the state highway commissioner is satisfied, after such tests or information as he may see fit to require, that the applicant is competent to operate a motor vehicle, and the

granting or refusing of such an application shall be entirely within the discretion of the said highway commissioner.

§ 5. [*Driver's License — Application — Fee — Badge — Display*].—Every person desiring to operate a motor vehicle as a chauffeur, or as a paid operator, shall first obtain a driver's license. Application for license shall be made upon a blank furnished by the highway department, and shall contain the name of the applicant, with place of residence, including city or town, street and number, and post-office address, and shall state that said applicant is over eighteen (18) years of age and is qualified to operate a motor vehicle. It shall be signed by the applicant and verified by oath or affirmation. Upon the receipt of the application and a fee of two dollars (\$2.00), the state highway department shall issue to the applicant a license and a badge. The license shall contain the licensee's name and residence and the date and number of the license, and shall be carried by the licensee at all times when operating a motor vehicle. Upon the badge shall be the words "Pennsylvania Licensed Driver," the year, and the number of the license which it accompanies. It shall not be less than two and one-half ($2\frac{1}{2}$) inches in its greatest diameter, and shall be conspicuously worn on the front of the outer garment of the licensee, at all times when said licensee is operating a motor vehicle.

§ 6. [*License and Registration—Duration—Transfer—Firms and Corporations—Transfer of Vehicle*].—Motor vehicles may be registered and licenses issued at any time during the year, but all registrations and licenses shall cease to be effective after the thirty-first day of December of the year issued. A registration certificate or license issued to one person shall not be transferred to another person; and no driver's license shall be issued to a firm or corporation, nor in the name of more than one person. Upon the transfer of ownership of any motor vehicle its registration shall expire; and it shall be the duty of the person in whose name such vehicle is registered to immediately notify the state highway department of the name and address of the new owner, and to return to the said department the registration certificate and number tags for the vehicle so transferred. Should the original owner make application for the registration of another motor vehicle within the period of two (2) months, accompanied by a fee of one dollar (\$1.00), he shall, if he so desires, be assigned the number previously issued to him.

§ 7. [*Registration by Manufacturers and Dealers*].—Motor vehicles operated by manufacturers or dealers for the purpose of testing, selling, or hire shall be exempt from the necessity of individual registration; provided said manufacturer or dealer registers with the state highway department in the "Dealer's Class." Application for such

registration, stating the number of cars to be registered, shall be made upon a blank provided for the purpose by the said department, which shall state the name and business address of the applicant, and shall be verified by oath or affirmation. Upon receipt of the application, and a fee of five dollars (\$5.00) for each certificate and pair of number tags, the state highway department shall issue to the applicant as many certificates of registration and pairs of number tags as may be desired, not exceeding five, having thereon the number of registration in figures not less than (5) inches in height, the year, and the word "Penna. Dealer." Such cars shall be operated by licensed drivers only.

§ 8. [*Persons Authorized to Register Vehicles and Grant Licenses—Fee*].—The highway commissioner shall be authorized, and full power and authority are hereby given him, to designate and appoint proper persons to be the agents of the said highway commissioner, for the purpose of registering motor vehicles and for the granting of licenses to applicants subject to the requirements of this act, and in accordance with such rules and regulations as shall be imposed by the said commissioner. The sum of twenty-five cents (25c) shall be allowed such agents as a fee for each certificate or license issued by them, the same to be retained by the said agents out of the registration fees or license fees paid to them.

§ 9. [*Driving While Intoxicated—Penalties*].—No person when intoxicated shall operate a motor vehicle, and any person guilty of so doing shall be subject to a fine of not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300), or imprisonment for not more than one year, or both; and the license of any person guilty of a violation of this section may be suspended for six months by the highway commissioner.

§ 10. [*Operation Under Another Number—Using without Permission—Penalties*].—No motor vehicle shall be operated under any other number other than that of its own registration, nor shall any person operate any motor vehicle without the consent of the owner thereof. Any person violating any of the provisions of this section shall be subject to a fine of not more than one hundred dollars (\$100), or imprisonment not exceeding one year, or both.

§ 11. [*Loss of Tags or Badge*].—In case of the loss of number tags or of a badge, a new pair of tags or a new badge, or another number than that borne by the lost tags or badge, may be obtained by filing with the state highway department, upon a blank furnished by said department, an affidavit reciting the loss of the said tags or badge, accompanied by a fee of one dollar (\$1.00).

§ 12. [*Equipment—Brakes—Signaling Device—Sounding—Lights*].—Every motor vehicle shall be provided, when in use, with good and

sufficient brakes; and with a horn, bell, or other signal device, which shall be sounded when necessary to insure the safety of the users of the highway. Motor vehicles shall, from one hour after sunset until one hour before sunrise, show at least two white lights, visible not less than two hundred feet (200) in the direction in which the motor vehicle is proceeding, and, excepting on motor cycles, one red light, visible in the opposite direction; provided, however, that motor-cycles need display only one white light in the direction in which they are proceeding.

§ 13. [*Sounding Signals—Approaching Others—At Crossways—Signs—Stopping on Signal—Stopping Motor—Stopping and Disclosing Identity in Case of Accident*].—Every operator of a motor vehicle, as aforesaid, shall sound his horn or signal device when overtaking another vehicle, or any person walking upon a public highway, or a horse, horses, or other animal of draft or burden, being led, ridden, or driven thereon; and, when circumstances require, when approaching a person or vehicle shall give reasonable warning of his approach; and also shall sound his horn or signal device when approaching a street or road crossing in any of the cities, boroughs, or townships of this commonwealth, where the proper authorities shall have erected signs, easily readable by the traveler approaching from either direction, bearing thereon, in letters at least five inches in height, the words "danger: blow your horn." The unnecessary sounding of bells or horns, or other signal device, and the use of muffler cut-outs upon any motorcycle, when passing any other vehicle, is prohibited. The operator of any motor vehicle shall have the same rights and right to use all public streets or roads as the driver of any other vehicle, or any other user of said street or highway possess; but when signaled to do so, by the driver of any horse or other animal, shall stop the motor vehicle, and, if circumstances require it, shall stop his engine until the danger has been avoided. In case of injury or damages to person or property due to the operation of a motor vehicle, the operator of said vehicle shall stop, and, upon request of the person injured or any one accompanying him, give his name and address and that of the owner of said motor vehicle.

§ 14. [*Speed—Regard to Highway—Local Regulations—Passing Street Cars*].—No person shall operate a motor vehicle on the public highways of this state recklessly, or at a rate of speed greater than is reasonable and proper, having regard to the width, traffic, and use of the highway, or so as to endanger property or the life or limb of any person; but no person shall drive a motor vehicle at a rate of speed exceeding one mile in two and one-half minutes; provided, that the local authorities having charge of any of the highways may, in dangerous, congested, or built up portions, place signs marked "Dan-

ger: run slow," and at these places the speed limit shall not exceed the rate of a mile in five minutes; the said signs to be plainly legible, and the letters to be not less than five inches in height. When a motor vehicle meets or overtakes a street passenger car which has stopped for the purpose of taking on or discharging passengers, the motor vehicle shall not pass said car, on the side on which passengers get on or off, until the car has started and any passengers who have alighted shall have gotten safely to the side of the road.

§ 15. [*Local Regulations Nullified—Speed in Parks—No Highways to Be Closed*].—No city, county, borough, or township shall have power to enforce or maintain any ordinance, rule, or regulation inconsistent with, or fixing a rate of speed lower than that permitted by this act; or require of any person any license tax upon or permit to operate motor vehicles upon the public highways; or the registration of any motor vehicle; and all such local ordinances, rules, or regulations now in force shall expire and shall be null and void and of no further effect. Except that in parks, the proper authorities may restrict the speed of motor vehicles to such a rate as may seem reasonable, provided said rate of speed shall not be less than that allowed other vehicles, and that legible signs shall be conspicuously placed indicating the rate of speed permitted. No public road open to horse-drawn vehicles shall be closed to motor vehicles.

§ 16. [*Exhibition of Registration Certificate or License—Information as to Identity of Driver or Owner*].—All operators of motor vehicles shall, upon request or signal of any constable or police officer, who shall be in uniform or shall exhibit his badge or other sign of authority, stop and exhibit their registration certificate or license, and shall furnish to any legally constituted authority all information in their possession as to the identity of the operator or owner of any motor vehicle.

§ 17. [*Arrest without Warrant—Bail*].—The constables and police officers of the cities, boroughs, and townships of this commonwealth may arrest, upon view and without warrant, any person or persons violating any provisions of this act; but such officer shall forthwith make and file with the magistrate or justice of the peace before whom the person arrested is taken, and furnish a copy thereof to the person arrested, an affidavit setting forth in detail the alleged violation of the section of the act complained of. In the event of an arrest, as aforesaid, if the defendant is unable to give sufficient bail for a hearing or for his appearance at court, the magistrate before whom he is first taken shall accept as bail any article of sufficient value, or, provided he is the owner thereof, hold in custody the motor vehicle found in the possession of the defendant; and the court, after the trial of the defendant, if no sufficient bail according to law

has been given in the meantime, shall make such order as to the disposition of such motor vehicle or other articles as to it shall seem just and proper.

§ 18. [*Penalties—Mode of Collection—Nonpayment—Trial by Jury—Second or Third Offense—Appeals*].—Any person—except as provided in sections nine and ten—violating any of the provisions of this act, shall be subject to a fine or penalty of not less than ten dollars (\$10.00), nor more than twenty-five dollars (\$25.00), to be collected by summary conviction before any magistrate or justice of the peace, as like fines and penalties are now by law collected; or, in case of nonpayment of a fine within forty-eight hours, bail in double the amount of fine and costs being first entered as provided for in section seventeen, to undergo an imprisonment in the county prison for a period not exceeding ten days; provided, that any person, so accused, may secure the right of trial by jury, before the court of quarter sessions of the peace for the county in which the offense is alleged to have been committed, by depositing with the magistrate, to whom complaint has been made, a sum equal in amount to the fine and costs which might be imposed, or by entering security to pay the same. Any person or persons who, having been previously convicted before a court of quarter sessions or magistrate or justice of the peace of this commonwealth of any violation of the provisions of this act, upon commission of a second offense, within a period of one year, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00); or, in case of nonpayment of such fine, to undergo an imprisonment in the county prison for a period not exceeding twenty days. Any person or persons who, having been previously convicted before a magistrate or justice of the peace of this commonwealth of violations of the provisions of this act, upon the commission of a third or subsequent offense, within a period of one year, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than fifty dollars (\$50.00), nor more than two hundred dollars (\$200); or, in case of nonpayment of such fine, to undergo an imprisonment in the county prison for a period not exceeding thirty days. Any person or persons accused of a second or subsequent offense shall have the right to a trial by jury, in the same manner and upon the same conditions as is provided for in the case of persons accused of a first offense; provided, that if, after conviction before a magistrate or justice of the peace, the accused desires to appeal to the court of quarter sessions, he shall be entitled to do so, provided he give a bond conditioned, upon securing and prosecuting the appeal, to secure payment of the fine imposed. The state high-

way commissioner shall issue printed bulletins, not oftener than once a month, giving the name and address of each applicant for a license, together with the number of the license issued to such applicant.

§ 19. [*Suspension or Revocation of Registration or License*].—The highway commissioner may revoke or suspend, after due notice in writing of the proposed revocation and the grounds thereof, for any period up to six months, the registration of any car or the license of any driver, upon reasonable grounds, for improper conduct in operating a motor vehicle, in cases where the punishment provided by the act is not adequate, in his opinion, or where the offender has been convicted two or more times for violations of the provisions of this act.

§ 20. [*Definitions—"Motor Vehicle"—"Motorcycle"*].—The term "motor vehicle," as used in this act, shall apply to all wheeled vehicles operated by any form of engine, motor, or mechanical power, excepting road rollers and vehicles which move upon or are guided by a track. The term "motorcycle," as used in this act, shall apply to two or three-wheeled vehicles operated by an engine, motor, or other mechanical device.

§ 21. [*Disposition of Fees*].—The revenues derived from the registration of motor vehicles, and from licensing operators thereof, under the provisions of this act, shall be paid by the state highway department to the state treasurer, to be used for the improvement of the roads of this commonwealth.

§ 22. [*Disposition of Fines—Statements of Sums Collected*].—All fines and penalties collected, under the provisions of this act, for violations of the same, shall be paid to the state treasurer, except those collected for violations of the provisions as to speed limit, which shall be paid to the treasurer of the city, borough, or township wherein the violation occurred, to be used for the construction, repair, and maintenance of the highways thereof; and sworn statements of all fines and penalties collected under the provisions of this act shall be made by the burgess, magistrate, justice of the peace, or other officer imposing or receiving the same, to the state highway commissioner. Said reports shall be made quarterly, upon the first day of the months of January, April, July and October of each year.

§ 23. [*Proof of Identity of Driver—Registration Number*].—In any proceeding for the violation of the provisions of this act, the registered number displayed on the motor vehicle shall be prima facie evidence that the registered owner of said car was then operating the same; provided, however, that if at any hearing or proceeding the owner shall testify, under oath or affirmation, that he was not operating the car at the time of the alleged violation of this act, and shall submit himself to an examination as to who at that time was oper-

ating the car, and reveal the name of the person if known, then the prima facie evidence arising from the registered number shall be overcome and removed, and the burden of proof shifted.

§ 24. [*Civil Actions—Process—Arrest of Offenders—Bail*].—All civil actions for damages arising from the use and operation of any motor vehicle, as aforesaid, may be brought in the city or county in which the alleged damages were sustained; and service of process may be made by the sheriff of the county where the suit is brought deputizing the sheriff of the county wherein the defendant in the suit or his registered agent resides, or where service may be had upon him, under the existing laws of this commonwealth, in like manner as process may now be served in the proper county. Proceedings under this act may be commenced either by arrest by the proper officer, upon view, or by the issuance of a warrant, in the name of the commonwealth, which warrant may be served by any constable, policeman, or other officer having authority to serve warrants in any part of the commonwealth. Any officer serving such warrant shall take the defendant before the magistrate or justice of the peace of the county in which the defendant is found, who shall take bail for his appearance before the magistrate or justice of the peace who issued the warrant.

§ 25. [*Acts Repealed Hereby*].—The act approved April twenty-third, nineteen hundred and three, entitled "An act relating to automobiles, or motor vehicles; providing for the registration thereof; regulating the speed limit upon public highways within this commonwealth; providing for the licensing of the operators thereof, and fixing the amount of the license; regulating the service of process and of proceedings in actions of damages arising therefrom; and prescribing the penalties for the violation of the same," and the act approved April nineteenth, nineteen hundred and five, entitled "An act relating to automobiles, or motor vehicles; regulating the speed limit upon the streets and public highways of this commonwealth; providing for the licensing of the operators thereof by the state highway department; fixing the amount of said license; regulating the service of process, and proceedings of actions in damages arising therefrom; and prescribing the penalties for the violation of the provisions of the same," and all other acts or parts of acts inconsistent herewith, shall be and the same are hereby repealed; provided, however, that the method of licensing residents of this state, as set forth in sections two, three, four, and seven of the act, approved April nineteenth, nineteen hundred and five, entitled "An act relating to automobiles, or motor vehicles; regulating the speed limit upon the streets and public highways of this commonwealth; providing for the licensing of the operators thereof by the state highway depart-

ment, fixing the amount of said license; regulating the service of process, and proceedings of actions in damages arising therefrom; and prescribing the penalties for the violation of the provisions of the same," shall remain in full force and effect until December thirty-first, nineteen hundred and nine, when the method of registering motor vehicles and licensing drivers as set forth in this act shall become effective.

RHODE ISLAND.

ACT OF MAY 26, 1908.

- § 3. Registration by Manufacturers and Dealers.
- 4. Display of Number—Plates.
- 5. Motorcycles—Display of Number.
- 7. Operator's License—Qualifications of Licenses—Applications—Production of License.
- 9. Suspension or Revocation of License—Appeals—Record of Convictions.
- 11. Operation—Recklessness—Speed—Rates.
- 12. Speed—Approaching Pedestrians or Horses—At Hills, Curves, Crossways, etc.—Fright of Horse—Signal from Driver—Rules of Road—Accidents—Stopping and Returning.
- 13. Driving while Intoxicated, in Race, or on Wager.
- 14. Local Regulations—Exclusion of Vehicles from Highways—Parks—Parades.
- 15. Display of Number—Other or Fictitious Numbers.
- 16. Equipment—Brakes—Muffler—Signaling Device—Lights—Illumination of Number—Device for Fastening—Chains.
- 18. Penalties—Second and Third Offenses—Endorsement of License.
- 20. Arrest of Offenders—Bail.
- 21. Registrations under Previous Act.
- 22. Numbers and Plates Assigned under Previous Act.
- 23. Records of Registrations—Custody.
- 25. Acts Repealed Hereby.

ACT OF MAY 7, 1909.

- § 1. Act of 1908, § 1, Amended.
- § 1. Definitions — "Motor Vehicle" — "Motorcycle" — "Automobile."—"Public Highways"—"Garage," etc.

- § 2. Act of 1908, § 2, Amended.
 - § 2. Registration of Vehicles—Application—Fee—Number—Certificate.
- 3. Act of 1908, § 6, Amended.
 - § 6. Record of Statements and Certificates—Plates—Transfer of Vehicle—Loss of Certificate.
- 4. Act of 1908, § 8, Amended.
 - § 8. Fees for Certificates and Licenses.
- 5. Act of 1908, § 10, Amended.
 - § 10. Nonresidents—Compliance with Foreign Law—Vehicle Used More Than Ten Days.
- 6. Act of 1908, § 17, Amended.
 - § 17. Tampering with Vehicle—Records of Garage Keepers and Manufacturers.
- 7. Act of 1908, § 24, Amended.
 - § 24. Enforcement of Act—Expense—Annual Appropriation.
- 8. Time of Taking Effect—Acts Repealed.

ACT OF MAY 7, 1909.

- § 1. Taking Vehicle without Permission.
- 2. Time of Taking Effect.

ACT OF MAY 2, 1910.

- § 1. Act of 1908, § 19, Amended.
 - § 19. Disposition of Fees and Fines.
- 2. Time of Taking Effect.

An Act concerning the registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles.

[Act passed May 26, 1908; Laws 1908, c. 1592.]

It is enacted by the General Assembly as follows:

§§ 1, 2. [Superseded by Act of May 7, 1909.]

§ 3. [*Registration by Manufacturers and Dealers*].—Every manufacturer of or dealer in motor vehicles may, instead of registering each motor vehicle owned or controlled by him, make application under oath to said board for a general distinguishing number or mark, and said board may, if satisfied as to the facts stated in said application, issue to the applicant a certificate of registration containing the name, place of residence, and post-office address of the applicant, and the

general distinguishing number or mark assigned to him; and all motor vehicles owned or controlled by such manufacturer or dealer shall, until sold, or let for hire, or loaned for a period of more than five successive days, be regarded as registered under, and having assigned to them, such general distinguishing number or mark. Manufacturers or dealers shall not be required to carry such certificates upon the vehicles registered under the provisions of this section, but every person operating a motor vehicle registered under the provisions of this section shall display on such vehicle, in such manner as said board may prescribe, the operator's license number assigned to such person.

§ 4. [*Display of Number—Plates*].—Every motor vehicle, except motorcycles, shall, at all times while being used or operated upon the public highways of this state, have displayed in a conspicuous place and manner a plate or marker entirely unobscured, and securely fastened, upon both the front and the rear of such motor vehicle, the plate or marker on the rear thereof to be fastened so as not to swing. Said plates or markers shall be obtained from the state board of public roads, as hereinafter provided, and shall bear the initial letters of this state and the number and mark assigned to such motor vehicle, the figures thereon to be not less than four inches high and each stroke thereof to be not less than one-half inch wide; and in case of plates or markers not in use on motor vehicles on the date that this act takes effect, the letters and figures thereon to be not less than four inches high and each stroke thereof to be not less than one-half inch wide.

§ 5. [*Motorcycles—Display of Number*].—Every motorcycle shall, at all times while being used or operated upon the public highways of this state, have displayed thereon the initial letters of this state and number or mark assigned to such motorcycle, such letters and figures to be at least one inch high and either painted on such motorcycle or displayed on a plate or marker securely fastened thereto, and no motorcycle shall be operated with its muffler open.

§ 6. [Superseded by Act of May 7, 1909.]

§ 7. [*Operator's License—Qualifications of Licensees—Applications—Production of License*].—No person shall operate a motor vehicle upon the public highways of this state until he shall have first obtained a license for that purpose, but nothing herein contained shall prevent the operating of a motor vehicle by an unlicensed person other than a person whose application has been refused or whose license has been suspended or revoked, if accompanied by a licensed operator, which licensed operator shall also be personally liable for any violation of the provisions of section eleven, twelve, or thirteen of this act. Licenses for operating motor vehicles shall be issued by the state

board of public roads, but no license shall be issued to any person under the age of sixteen years. Any applicant for a license to operate a motor vehicle upon the public highways shall be required by said board to show such knowledge of the mechanism of motor vehicles, the rules of the road, and the motor vehicle law, as will, in the opinion of said board, render said applicant a proper and safe person to operate said vehicle upon the public highway. The state board of public roads may, at its discretion, refuse to grant a license for operating a motor vehicle upon the public highways to any applicant who, for any reason, it considers an improper person. Applications for licenses shall be made under oath upon blanks furnished by said board, and said application blanks and said licenses shall be in such form and contain such provisions, not inconsistent with this act, as said board may determine. A number shall be assigned to each licensee, and a proper record of all applications for licenses and of all licenses issued shall be kept by said board at its office, and shall be open to public inspection. Each license shall state the name, place of residence, and post-office address of the licensee, and the number assigned to him. Said licenses shall continue in force until one year from the date of issue, unless suspended or revoked for cause, and shall at all times be carried by the licensee when he is operating a motor vehicle upon the highways of this state, and shall be subject to examination upon demand by any proper officer; and said licenses shall have endorsed thereon in the proper handwriting of the licensee the name of said licensee, and when requested by a proper officer, in the discharge of his duties under this act, said licensee shall write his name in the presence of said officer, to the end that the identity of said licensee may be determined.

§ 8. [Superseded by Act of May 7, 1909.]

§ 9. [*Suspension or Revocation of License—Appeals—Record of Convictions*].—The state board of public roads may, after due hearing upon not less than three days' notice in writing, suspend or revoke the license issued to any person under section seven of this act, for any cause which it may deem sufficient; but every applicant for a license whose application shall be refused by said board, and every licensee whose license shall be suspended or revoked by said board, may appeal to the superior court from such decision, refusal, or revocation, which court may affirm or overrule the decision of said board. Every district court in this state shall in every case in which a person is convicted of a violation of any of the provisions of sections eleven, twelve, or thirteen of this act, within ten days after such conviction therein, transmit notice thereof to the state board of public roads. Said courts may furnish to said board the details of all flagrant cases

which may be heard before them, and they may make such recommendations to said board as to the suspension or revocation of the licenses of the parties defendant in such cases as they may deem proper. Said board shall keep such data in its office, which shall be open to public inspection. Whenever any person licensed to operate a motor vehicle upon the public highways of the state shall have been convicted of any violation of sections eleven, twelve or thirteen of this act, said board may revoke the license of such person, and require a return of the same. No person shall, for the period of three months from the date of the revocation of this license, be capable of receiving a new license, nor thereafter except in the discretion of said board.

§ 10. [Superseded by Act of May 7, 1909.]

§ 11. [*Operation—Recklessness—Speed—Rates*].—No person shall operate or cause to be operated a motor vehicle on the public highways of this state recklessly or at a rate of speed greater than is reasonable and proper, having regard to the width, traffic, and use of the highway, or so as to endanger property or the life or limb of any person, or in any event on any public highway, where the territory contiguous thereto is closely built up, at a rate of speed greater than fifteen miles per hour, or elsewhere at a rate of speed greater than twenty-five miles per hour, subject however to all other provisions of this section and of this act relative to the operation of such vehicles.

§ 12. [*Speed—Approaching Pedestrians or Horses—At Hills, Curves, Crossings, etc.—Fright of Horse—Signal from Driver—Rules of Road—Accidents—Stopping and Returning*].—Upon approaching any person standing or walking in the travelled portion of any public highway, or a horse or any other draft animal being led, ridden, or driven therein, or a crossing of intersecting public highways, or a bridge, or a sharp turn, or a curve, or a steep descent, and also in passing such person or such horse or other draft animal, and in traversing such crossing, bridge, turn, curve, or descent, the person operating a motor vehicle shall have the same under control and shall reduce its speed to a reasonable and proper rate. If such horse or other draft animal being so led, ridden, or driven shall appear to be frightened, or if the person in charge thereof shall signal so to do, the person operating such motor vehicle shall bring the same and the motor or other power propelling the same immediately to a stop and, if travelling in the opposite direction, shall remain stationary so long as may be reasonable to allow such horse or animal to pass, or, if travelling in the same direction, shall use reasonable caution in thereafter passing such horse or other animal. Upon approaching a crossing of intersecting highways, a bridge, sharp turn, curve, or a steep descent, the person operating a motor vehicle shall slow

down and give a timely signal with his bell, horn, or other device for signalling. Whenever two vehicles meet on a public highway, the operator of each vehicle shall seasonably keep to the *right* so as to pass without interference. Whenever one vehicle overtakes another, the one in the rear shall give timely signal as aforesaid, and shall pass on the *left*, and the operator of the one in front shall seasonably bear to the right so as to allow free passage on the left. The driver of any motor vehicle on any highway, approaching an intersecting highway, shall slow down and keep to the right of the intersection of the centres of both highways, when turning to the right, and pass to the right of the intersection of the centres of said highways before turning to the left. Every driver of a motor vehicle, after knowingly causing an accident by collision or otherwise, or knowingly injuring any person, horse, or vehicle, shall forthwith bring his motor vehicle to a full stop, return to the scene of the accident, and give to any proper person, demanding the same, the number of his driver's license, the registration number of the motor vehicle, and the names and residences of each and every male occupant of said motor vehicle.

§ 13. [*Driving While Intoxicated, in Race, or on Wager*].—No person shall operate a motor vehicle, on the public highways of this state, when intoxicated, or in a race, or on a bet or wager, or for the purpose of making a record.

§ 14. [*Local Regulations—Exclusion of Vehicles from Highways—Parks—Parades*].—No city or town shall have power to make any ordinance, by-law, or resolution respecting the speed of motor vehicles, and no ordinance, by-law, or resolution heretofore or hereafter made by any city or town in respect to motor vehicles shall have any force or effect: *Provided, however*, that city and town councils of the several cities and towns may exclude motor vehicles from certain roads in their respective towns, and shall designate such roads by public signs: *Provided*, that such roads excluded shall not include state roads or main highways leading from town to town; and *provided, further*, that powers given to any city or town to regulate shows, processions, assemblages, or parades in streets and public places, and to regulate the use of public parks, and all ordinances, by-laws, and regulations which may be enacted in pursuance of said powers shall remain and be in full force and effect.

§ 15. [*Display of Number—Other or Fictitious Numbers*].—No motor vehicle, while in use on the public highways of this state, shall have displayed upon either the front or the rear of such vehicle, more than two registration plates or markers, nor shall any person display, or permit to be displayed, upon his motor vehicle the registration num-

ber belonging to another vehicle or person, or a fictitious number, plate, or marker.

§ 16. [*Equipment—Brakes—Muffler—Signalling Device—Lights—Illumination of Number—Device for Fastening—Chains*].—Every motor vehicle, while in use on the public highways of this state, shall be provided with adequate brakes, with a muffler and with a suitable bell, horn, or other device for signalling, and shall, during the period from one hour after sunset to one hour before sunrise, display one or more white lights on the forward part of such vehicle, so placed as to be seen from the front, and shall also display, on the rear of such vehicle, a lamp so placed that it shall show a red light from the rear and a white light at the side, and so arranged as to illuminate the rear number or marker, all of which said lights shall be of sufficient illuminating power as shall be prescribed by the state board of public roads. Every motor vehicle shall be provided with a lock, key, or other device to prevent said vehicle from being set in motion, and no person shall allow any such vehicle operated by him to stand or remain unattended in any street, avenue, road, alley, highway, park, parkway, or other public place without first locking or making fast the vehicle as above provided. No motor vehicle tire shall be fitted with a chain when used upon gravel, macadam, or other made roads, except upon natural dirt, asphalt, cobble, Belgium block, or vitrified brick pavements: *Provided, however*, that tires may be fitted with a chain when reasonably necessary for safety in case of slippery roads.

§ 17. [Superseded by Act of May 7, 1909.]

§ 18. [*Penalties—Second and Third Offenses—Endorsement of License*].—Any person violating any provision of sections eleven or thirteen of this act shall for the first offence be fined not more than two hundred dollars or imprisoned not more than thirty days, or both; and shall for the second offence be fined not more than five hundred dollars or imprisoned not more than sixty days, or both; and shall for the third offence within any one calendar year be imprisoned for not more than ninety days, and shall thereby forfeit his license and be thereby disqualified from obtaining any such license within two years thereafter. Any person making false affidavit under the provisions of sections two, three, and seven of this act, or who shall register or cause to be registered any motor vehicle in the name of any person other than the owner thereof, shall be fined not more than five hundred dollars or imprisoned not more than sixty days, or by both such fine and imprisonment. Any person violating any other provision of this act shall be fined not more than one hundred dollars or imprisoned not more than thirty days, or both, for every such violation, and any court before whom a final conviction shall be

had, under the provisions of sections eleven, twelve, or thirteen of this act, shall endorse upon the license of the person convicted the date and particulars of such conviction.

§ 19. [Superseded by Act of May 2, 1910.]

§ 20. [*Arrest of Offenders—Bail*].—Any person arrested for violating any of the provisions of this act may tender as bail a motor vehicle of which he is the owner, and if his interest in such vehicle is of sufficient value it may be accepted as security for his appearance, in lieu of any other bail.

§ 21. [*Registrations under Previous Act*].—All certificates of registration of motor vehicles issued under the provisions of Chapter 1157 of the Public Laws, passed at the January session, 1904, shall continue in force for ninety days after this act shall go into effect, but every owner of a motor vehicle so registered shall register such motor vehicle in accordance with the provisions of this act before the expiration of said ninety days.

§ 22. [*Numbers and Plates Assigned under Previous Act*].—The state board of public roads may assign to any motor vehicle, registered under the provisions of this act, the same registration number and the same plates or markers heretofore assigned to it or used under the authority of Chapter 1157 of the Public Laws, passed at the January session, 1904.

§ 23. [*Records of Registrations—Custody*].—The secretary of state is hereby authorized and directed to turn over to the state board of public roads all records of the certificates of registration issued by him in accordance with the provisions of Chapter 1157 of the Public Laws, passed at the January session, 1904, which shall be in his custody at the time this act takes effect.

§ 24. [Superseded by Act of May 7, 1909.]

§ 25. [*Acts Repealed Hereby*].—Chapter 1157 of the Public Laws, passed at the January session, 1904, and all acts and parts of acts inconsistent herewith, are hereby repealed, and this act shall take effect from and after the first day of June, 1908.

An Act in amendment of Chapter 1592 of the Public Laws, entitled "An act concerning the registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," passed at the January session, A. D. 1908.

[Act passed May 7, 1909; Laws 1909, c. 454.]

It is enacted by the General Assembly as follows:

§ 1. [*Act of 1908, § 1, Amended*].—Section 1 of Chapter 1592 of the Public Laws, passed at the January session, A. D. 1908, entitled

"An act concerning the registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," is hereby amended so as to read as follows:

"§ 1. [*Definitions — "Motor Vehicle" — "Motorcycle" — "Automobile" — "Public Highways" — "Garage," etc., etc.*].—The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) 'motor vehicle' shall include all vehicles propelled by mechanical power, except road-rollers, street sprinklers, fire engines and apparatus, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks; (2) 'motorcycle' shall include only those motor vehicles having pedals and saddle, with driver sitting astride; (3) 'automobile' shall include all motor vehicles except motorcycles, commercial motor vehicles and motor trucks; (4) 'commercial motor vehicles and motor trucks' shall include such motor vehicles as are used only for the transportation of freight; (5) 'registration' has reference to vehicle; registration of a motor vehicle by the owner or person in control thereof does not give such person the right to operate the machine upon the public highways; (6) 'license' has reference to the operator; each person who operates a motor vehicle must have an operator's license; (7) 'public highways' shall include any highway, state road, public street, avenue, alley, park, parkway, driveway, or public place in any city, village, or town; (8) 'closely built up' shall mean (a) the territory of a city, village, or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of a city, village, or town contiguous to a public highway not devoted to business, where for not less than one-quarter of a mile the dwelling houses on such highway average less than one hundred feet apart, and also (c) the territory outside of a city or village contiguous to a public highway within a distance of one-half mile from any post-office: Provided, that for a distance of at least one-quarter of a mile within such limits the dwelling houses on such highway average less than one hundred feet apart; and provided, further, that the city and town officers having charge of such highway shall have placed conspicuously thereon signs of sufficient size to be easily readable by a person using the highway, bearing the words, 'slow down to fifteen miles,' and also an arrow pointing in the direction where the speed is to be reduced; (9) 'garage' shall mean every public place where one or more motor vehicles are stored or housed, except only such places in which motor vehicles are kept by the owners thereof without payment for storage."

§ 2. [*Act of 1908, § 2, Amended*].—Section 2 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 2. [*Registration of Vehicles—Application—Fee—Number—Cer-*

tificate].—Every owner of one or more motor vehicles shall, before using the same on the public highways, file in the office of the state board of public roads, on a blank furnished by said board, a statement, under oath, of his name, residence, and post-office address, and a brief description of each motor vehicle owned or controlled by him, including the name of the maker, the number, if any, affixed by the maker, the character of the motive power, and such other information as shall be required by said board. The horse-power of every motor vehicle sought to be registered shall be determined by the state board of public roads, and such determination shall be final and conclusive. The said board upon receipt of the proper fee shall then register each such motor vehicle, assigning to it a distinguishing number or mark, and shall thereupon issue to the owner thereof a certificate of registration which shall contain the name, place of residence, and post-office address of the owner, and the number or mark assigned to such motor vehicle, and such certificate shall at all times be carried upon such motor vehicle, and shall be subject to examination upon demand by any proper officer. Application for such registration may be made by mail or otherwise to the state board of public roads or its authorized agent. If said board shall determine at any time that for any reason a motor vehicle is unsafe or improperly equipped, or otherwise unfit to be operated, it may refuse to register such vehicle, and said board may, after notice and an opportunity for a hearing thereon, for like reasons revoke any registration already recorded. The certificates provided for in this section and in section three shall continue in force until one year from the date of issue, and upon the renewal of any such certificate said board or its authorized agent shall reassign the distinguishing number or mark contained therein."

§ 3. [*Act of 1908, § 6, Amended*].—Section 6 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 6. [*Record of Statements and Certificates—Plates—Transfer of Vehicle—Loss of Certificate*].—The state board of public roads shall keep a record of all statements filed with said board and of all certificates issued by said board, which shall be open to public inspection; and said board shall furnish, from time to time, at cost price, to any person having a motor vehicle registered under the provisions of this act, as many plates or markers as may be required by such person for display upon such motor vehicle. Upon the transfer of ownership of any motor vehicle its certificate of registration shall expire, and the person in whose name such vehicle is registered shall return forthwith the certificate of registration to the state board of public roads with a written notice containing the date of such trans-

ter of ownership and the name, place of residence, and address of the new owner. A person who transfers the ownership of a registered motor vehicle owned by him to another, upon the filing of a new application and upon the payment of the proper fee, may have registered in his name another motor vehicle for the unexpired portion of the year covered by the aforesaid surrendered certificates, provided the horse-power of said motor vehicle is the same or less than that of the motor vehicle first registered by him; but if the horse-power of the motor vehicle is greater than that of the motor vehicle first registered by him, the applicant shall pay, in addition to the said fee, the difference between the fee paid by him for the said vehicle first registered and the fee for the registration of a motor vehicle of the higher horse-power, as provided in section eight. The state board of public roads, at its discretion, may assign to the motor vehicle of any person who surrenders his registration certificate as herein provided, and who desires to register another motor vehicle, the register number of the motor vehicle described in the surrendered certificate. In the event that any certificate issued by said board under the provisions of this act shall be lost or destroyed, said board may issue, to the person whose certificate has been so lost or destroyed, a duplicate thereof. In the event that said board is unable to immediately furnish any plate or marker provided for by this act to any person entitled thereto, said board may issue a certificate to such person stating that such marker has been ordered and giving the number thereof, and such person may thereafter use a temporary plate or marker, similar in form to the plate or marker provided for by this act, until said plate or marker has been so furnished."

§ 4. [*Act of 1908, § 8, Amended*].—Section 8 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 8. [*Fees for Certificates and Licenses*].—The following fees shall be paid to the state board of public roads for the certificates and licenses issued by it in accordance with the provisions of this act: For the registration of every motorcycle, one dollar. For the registration of every commercial motor vehicle and every motor truck, regardless of the horse-power thereof, two dollars. For the registration of every automobile of twenty horse-power or less, five dollars. For the registration of every automobile over twenty horse-power and not more than thirty horse-power, ten dollars. For the registration of every automobile over thirty horse-power and not more than forty horse-power, fifteen dollars. For the registration of every automobile of more than forty horse-power, twenty-five dollars. For the registration of all of the motor vehicles owned by or under the control of a manufacturer of or dealer in motor vehicles, fifty dollars. For each original license or duplicate thereof to operate a motor vehicle, other than a

motorcycle, one dollar. For each original license or duplicate thereof to operate a motorcycle, one dollar. For the substitution of the registration of a motor vehicle for that of a vehicle previously registered in accordance with the provisions of section 6 of this chapter, one dollar."

§ 5. [*Act of 1908, § 10, Amended*].—Section 10 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 10. [*Nonresidents—Compliance with Foreign Law—Vehicle Used More Than Ten Days*].—Any nonresident of this state who shall have complied with the laws of the state or territory of the United States in which he resides, requiring the registration of owners of motor vehicles or of motorcycles, or of both, and the display of identification numbers of such vehicles, and who shall cause the identification numbers of such state or territory, in accordance with the laws thereof, and none other, together with the initial letter or letters of such state or territory, to be displayed on his motor vehicle while used or operated upon the public highways of this state, may bring his motor vehicle into this state for use on its highways without complying with the provisions of the foregoing sections of this act: Provided, however, that if said nonresident shall use his motor vehicle on the highways of this state more than ten (10) days in any one calendar year he shall then be subject to and shall comply with said provisions, and if he shall be convicted of violating, on any of said ten days, any provisions of sections eleven, twelve, or thirteen of this act, he shall immediately be subject to and required to comply with all the provisions of this act relating to the registration of motor vehicles and the licensing of operators thereof."

§ 6. [*Act of 1908, § 17, Amended*].—Section 17 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 17. [*Tampering with Vehicle—Records of Garage Keepers and Manufacturers*].—No person shall interfere or tamper with a motor vehicle without the permission of the owner. Every manufacturer of and dealer in motor vehicles, and every owner, proprietor, person in control, or keeper, of a garage, shall keep or cause to be kept in a book a proper record of every automobile which enters and which leaves his garage, stable, or place of business. Said book shall have blank columns and headings on every page as prescribed by the state board of public roads. All entries in said book shall be made legibly in ink. The said book shall be kept in some convenient place and shall be open at all times to the inspection of the state board of public roads or its agents, and of any police officer or constable."

§ 7. [*Act of 1908, § 24, Amended*].—Section 24 of the said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 24. [*Enforcement of Act—Expense—Annual Appropriation*].—

The state board of public roads may employ such assistance and incur such expense as may be necessary to carry out the provisions of this act, and the sum of one thousand dollars, or so much thereof as may be necessary, in addition to any sums heretofore appropriated, is hereby appropriated for the fiscal year ending December 13th, [31st.] A. D. 1909, and thereafter the sum of thirty-five hundred dollars, or so much thereof as may be necessary, is hereby annually appropriated, out of any money in the treasury not otherwise appropriated, to defray the expenses of such board in carrying out the provisions of this act; and the state auditor is hereby authorized to draw his order upon the general treasurer for the payment of said sum, upon the receipt by him of properly authenticated vouchers."

§ 8. [Time of Taking Effect—Acts Repealed].—This act shall take effect upon its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

An Act in amendment of Section 41 of Chapter 279 of the General Laws, entitled "Of offences against private property," as amended by Chapter 963 of the Public Laws, passed at the January session, A. D. 1902.

[Act passed May 7, 1909: Laws 1909, c. 460.]

It is enacted by the General Assembly as follows:

§ 1. [Taking Vehicle without Permission].—Section 41 of Chapter 279 of the General Laws, entitled "Of offences against private property," as amended by Chapter 963 of the Public Laws, passed at the January session, A. D. 1902, is hereby amended so as to read as follows:

"§ 41. Every person who shall willfully, mischievously, or without right take, drive, ride, or use any ox, or milk any cow, the property of another, without the consent of the owner or the person having the lawful care or custody of the same, shall be fined not exceeding five hundred dollars or be imprisoned one year. Every chauffeur or other person who shall drive or operate any motor vehicle upon any public road or highway in this state in the absence of the owner of such motor vehicle, without such owner's consent, shall be fined not exceeding one thousand dollars, or be imprisoned not exceeding three years. Every person who shall willfully, mischievously, or without right take or use any boat, carriage, wagon or any kind of vehicle other than a motor vehicle, or take, drive, ride, or use any horse, the property of another, without the consent of the owner or the person having the lawful care or custody of the same, shall be fined not exceeding one

thousand dollars or be imprisoned not exceeding three years: Provided, that nothing in this section contained shall be so construed as to apply to any case where property is taken with the intent to steal the same, or where it is taken under a claim or rights."

§ 2. [*Time of Taking Effect*].—This act shall take effect upon its passage.

An Act in amendment of chapter 86 of the General Laws, entitled "The registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," as amended by chapter 420 of the Public Laws, passed at the January session, A. D. 1909.

[Act approved May 2, 1910; Laws 1910, c. 590.]

It is enacted by the General Assembly as follows:

§ 1. [*Act of 1908, § 19, Amended*].—Section 19 of Chapter 86 of the General Laws, entitled "The registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," as amended by Chapter 420 of the Public Laws, passed at the January session, A. D. 1909, is hereby amended so as to read as follows:

"§ 19. [*Disposition of Fees and Fines*].—All money collected for registration and license fees and fines under the provisions of this act shall be turned over to the general treasurer, and the members of the state board of public roads shall be paid annually, from the money received from such registration and license fees and fines, the sum of five hundred dollars each, and a sum not to exceed three thousand five hundred dollars may be used by said board for clerical assistance and other expenses that may be necessary for the purpose of carrying out the provisions of this act, the balance to be used for the repair and maintenance of state roads and highways in this state under the direction of the state board of public roads; and the state auditor is hereby authorized and directed to draw his orders on the general treasurer for the payment of said sums upon the receipt by him of vouchers signed by the chairman and secretary of said board."

§ 2. [*Time of Taking Effect*].—This act shall take effect from and after its passage.

SOUTH CAROLINA.

ACT OF MARCH 7, 1905.

§ 1. Speed—Regard to Traffic—Care—Rate.

2. Speed at Crossways, Curves, Hills—Rate.

- § 3. *Approaching Pedestrians or Horses—Warning—Care—Stopping.*
- 4. *Stopping on Signal—Stopping Motor.*
- 6. *Equipment—Brakes—Signaling Device—Lights—Fog.*
- 7. *Penalties.*
- 8. *"Motor Vehicles" Defined.*

ACT OF FEB. 21, 1906.

- § 1. *Registration of Vehicles—Certificates.*
- 2. *Display of Number.*
- 3. *Stopping on Signal—Stopping Motor.*
- 4. *Penalties.*

An Act to regulate the running of motor vehicles upon the public highways of this state, and fixing a penalty for the violation thereof.

[Act approved March 7, 1905; 24 St. L. 965.]

Be it enacted by the General Assembly of the State of South Carolina:

§ 1. [*Speed—Regard to Traffic—Care—Rate*].—That no person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper at the time and place, having regard to the traffic and use of the highway, and its condition, or so as to endanger the life, limb or property of any person, or in any event at a greater rate than fifteen miles an hour, subject, however, to the other provisions of this act.

§ 2. [*Speed at Crossways, Curves, Hills—Rate*].—Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at the rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 3. [*Approaching Pedestrians or Horses—Warning—Care—Stopping*].—Upon approaching a person walking in the roadway of a public highway or a horse or other draft animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its approach by signaling with a horn, bell or otherwise not calculated to frighten such animals, and use every reasonable precaution to insure the safety of such person or animals, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same

under control, and if such horses or other draft animals appear frightened, to reduce the speed to not more than one-half the speed permitted by Section 2, and bring same to stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicle.

§ 4. [*Stopping on Signal—Stopping Motor*].—A person operating a motor vehicle shall, at request or upon signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in opposite direction, remain stationary so long as may be reasonable to allow such horses or animals to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horses or animals: Provided, that in case such horse or animal appears badly frightened, or he is requested to do so, the person operating such motor vehicle shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

[Compare Act of 1906, § 3.]

§ 5. [*Rules of Road—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on public highways any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person operating such motor vehicle shall reasonably turn the same to the right of the center of such highway, so as to pass without interference. Any person operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider, driver of such horse, draft animal or other vehicle shall as soon as practicable, turn to the right, so as to allow free passage on the left. Any person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centres of such highways when turning to the right, and pass to the left of such intersection when turning to the left.

§ 6. [*Equipment—Brakes—Signaling Device—Lights—Fog*].—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which the vehicle is proceeding, and a red light in reverse direction: Provided, that in case of heavy fog, if necessary, such light shall be displayed in the daytime before sunset and after sunrise.

§ 7. [*Penalties*].—Whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, be fined

not less than ten dollars nor more than one hundred dollars, or imprisonment for not more than thirty days.

§ 8. [*"Motor Vehicles" Defined*].—"Motor Vehicles," as used in this act, includes all vehicles propelled by gasoline or other explosive vapor, steam, electricity or other kindred power, but the provisions of this act do not apply to road rollers, nor to motor vehicles run upon rails or set tramways or tracks.

An Act to amend an act entitled "An act to regulate the running of motor vehicles upon the public highways of this state, and fixing a penalty for the violation thereof," approved 7th of March, 1905, prescribing duties of motor operator, increasing the penalty for violating thereof.

[Act approved Feb. 21, 1906; 25 St. L. 79.]

Be it enacted by the General Assembly of the State of South Carolina.

§ 1. [*Registration of Vehicles—Certificates*].—Every owner of an automobile or motor vehicle, whether the same be propelled by steam, gasoline, electricity, or other source of energy, shall, before operating said vehicle upon any of the streets or highways of this state file in the office of the clerk of the court of the county where such owner or operator resides, a statement containing his name and address, with a brief description of the character of such vehicle, including the name of the maker and the number of the motor vehicle, and shall pay to the clerk as a registration fee the sum of one dollar. The said clerk of court shall thereupon issue such person a certificate, properly numbered, stating that such owner or operator has registered in accordance with this section, and shall cause the name of such owner, with his address and the number of his certificate, and a description of motor vehicle, to be placed in alphabetical order in a book kept for that purpose. Any person, or persons, hereafter acquiring an automobile, or wishing to operate one, on any of the streets or highways of this state, shall, within ten days after acquiring the same, register with the clerk of court of his county, as required by this section. This section shall not apply to any person manufacturing or dealing in automobiles, or motor vehicles, except those for his own private use, or those hired out. The clerk of court shall number the certificates issued by him in the order in which they have been issued, and upon the request of the holder of such certificate, shall stamp thereon the number of the same, or issue a duplicate showing the number.

§ 2. [*Display of Number*].—It shall be unlawful for any person

to operate a motor vehicle in this state without first having placed upon the back of such vehicle, which name and number shall be plainly placed or printed thereon, the number in Arabic numerals, black on white ground, of not less than three inches in height, and each stroke to be of width not less than one-half inch.

§ 3. [*Stopping on Signal—Stopping Motor*].—A person operating a motor vehicle shall, at request or upon signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in opposite direction, remain stationary so long as may be reasonable to allow such horses or animals to pass. And if travelling in the same direction, the person or persons operating the motor vehicle shall not pass any person or persons in charge of an animal or animals, if requested by such person or persons in charge of such animal or animals not to do so, until such person or persons have gotten to a place where they could drive such animal or animals out of road, or when passage could be safely effected, or when such person or persons without just cause and excuse intentionally obstruct the passage of any motor vehicle: *Provided*, that in case such horse or animal appear badly frightened, or he is requested to do so, the person operating such motor vehicle shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

§ 4. [*Penalties*].—Any person, or persons, violating any of the provisions of this act, shall for each offence be deemed guilty of misdemeanor, and upon conviction thereof by any court of competent jurisdiction, be liable to a fine of not less than twenty dollars nor more than one hundred dollars, or imprisonment at hard labor for a term not exceeding thirty days.

SOUTH DAKOTA.

ACT OF FEB. 24, 1905.

- § 1. Definitions—"Motor Vehicle"—"Closely Built up Portions."
2. Registration of Vehicles.
3. Record of Registrations—Numbers.
4. Subsequently Acquired Vehicles — Previously Registered Vehicles.
5. Seal—Form—Display.
6. Display of Number—Mode.

"An act concerning the registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," is hereby amended so as to read as follows:

"§ 1. [Definitions — "Motor Vehicle" — "Motorcycle" — "Automobile" — "Public Highways" — "Garage," etc., etc].—The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) 'motor vehicle' shall include all vehicles propelled by mechanical power, except road-rollers, street sprinklers, fire engines and apparatus, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks; (2) 'motorcycle' shall include only those motor vehicles having pedals and saddle, with driver sitting astride; (3) 'automobile' shall include all motor vehicles except motorcycles, commercial motor vehicles and motor trucks; (4) 'commercial motor vehicles and motor trucks' shall include such motor vehicles as are used only for the transportation of freight; (5) 'registration' has reference to vehicle; registration of a motor vehicle by the owner or person in control thereof does not give such person the right to operate the machine upon the public highways; (6) 'license' has reference to the operator; each person who operates a motor vehicle must have an operator's license; (7) 'public highways' shall include any highway, state road, public street, avenue, alley, park, parkway, driveway, or public place in any city, village, or town; (8) 'closely built up' shall mean (a) the territory of a city, village, or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of a city, village, or town contiguous to a public highway not devoted to business, where for not less than one-quarter of a mile the dwelling houses on such highway average less than one hundred feet apart, and also (c) the territory outside of a city or village contiguous to a public highway within a distance of one-half mile from any post-office: Provided, that for a distance of at least one-quarter of a mile within such limits the dwelling houses on such highway average less than one hundred feet apart; and provided, further, that the city and town officers having charge of such highway shall have placed conspicuously thereon signs, of sufficient size to be easily readable by a person using the highway, bearing the words, 'slow down to fifteen miles,' and also an arrow pointing in the direction where the speed is to be reduced; (9) 'garage' shall mean every public place where one or more motor vehicles are stored or housed, except only such places in which motor vehicles are kept by the owners thereof without payment for storage."

§ 2. [Act of 1908, § 2, Amended].—Section 2 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 2. [Registration of Vehicles—Application—Fee—Number—Cer-

tificate].—Every owner of one or more motor vehicles shall, before using the same on the public highways, file in the office of the state board of public roads, on a blank furnished by said board, a statement, under oath, of his name, residence, and post-office address, and a brief description of each motor vehicle owned or controlled by him, including the name of the maker, the number, if any, affixed by the maker, the character of the motive power, and such other information as shall be required by said board. The horse-power of every motor vehicle sought to be registered shall be determined by the state board of public roads, and such determination shall be final and conclusive. The said board upon receipt of the proper fee shall then register each such motor vehicle, assigning to it a distinguishing number or mark, and shall thereupon issue to the owner thereof a certificate of registration which shall contain the name, place of residence, and post-office address of the owner, and the number or mark assigned to such motor vehicle, and such certificate shall at all times be carried upon such motor vehicle, and shall be subject to examination upon demand by any proper officer. Application for such registration may be made by mail or otherwise to the state board of public roads or its authorized agent. If said board shall determine at any time that for any reason a motor vehicle is unsafe or improperly equipped, or otherwise unfit to be operated, it may refuse to register such vehicle, and said board may, after notice and an opportunity for a hearing thereon, for like reasons revoke any registration already recorded. The certificates provided for in this section and in section three shall continue in force until one year from the date of issue, and upon the renewal of any such certificate said board or its authorized agent shall reassign the distinguishing number or mark contained therein."

§ 3. [*Act of 1908, § 6, Amended*].—Section 6 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 6. [*Record of Statements and Certificates—Plates—Transfer of Vehicle—Loss of Certificate*].—The state board of public roads shall keep a record of all statements filed with said board and of all certificates issued by said board, which shall be open to public inspection; and said board shall furnish, from time to time, at cost price, to any person having a motor vehicle registered under the provisions of this act, as many plates or markers as may be required by such person for display upon such motor vehicle. Upon the transfer of ownership of any motor vehicle its certificate of registration shall expire, and the person in whose name such vehicle is registered shall return forthwith the certificate of registration to the state board of public roads with a written notice containing the date of such trans-

fer of ownership and the name, place of residence, and address of the new owner. A person who transfers the ownership of a registered motor vehicle owned by him to another, upon the filing of a new application and upon the payment of the proper fee, may have registered in his name another motor vehicle for the unexpired portion of the year covered by the aforesaid surrendered certificates, provided the horse-power of said motor vehicle is the same or less than that of the motor vehicle first registered by him; but if the horse-power of the motor vehicle is greater than that of the motor vehicle first registered by him, the applicant shall pay, in addition to the said fee, the difference between the fee paid by him for the said vehicle first registered and the fee for the registration of a motor vehicle of the higher horse-power, as provided in section eight. The state board of public roads, at its discretion, may assign to the motor vehicle of any person who surrenders his registration certificate as herein provided, and who desires to register another motor vehicle, the register number of the motor vehicle described in the surrendered certificate. In the event that any certificate issued by said board under the provisions of this act shall be lost or destroyed, said board may issue, to the person whose certificate has been so lost or destroyed, a duplicate thereof. In the event that said board is unable to immediately furnish any plate or marker provided for by this act to any person entitled thereto, said board may issue a certificate to such person stating that such marker has been ordered and giving the number thereof, and such person may thereafter use a temporary plate or marker, similar in form to the plate or marker provided for by this act, until said plate or marker has been so furnished."

§ 4. [*Act of 1908, § 8, Amended*].—Section 8 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 8. [*Fees for Certificates and Licenses*].—The following fees shall be paid to the state board of public roads for the certificates and licenses issued by it in accordance with the provisions of this act: For the registration of every motorcycle, one dollar. For the registration of every commercial motor vehicle and every motor truck, regardless of the horse-power thereof, two dollars. For the registration of every automobile of twenty horse-power or less, five dollars. For the registration of every automobile over twenty horse-power and not more than thirty horse-power, ten dollars. For the registration of every automobile over thirty horse-power and not more than forty horse-power, fifteen dollars. For the registration of every automobile of more than forty horse-power, twenty-five dollars. For the registration of all of the motor vehicles owned by or under the control of a manufacturer of or dealer in motor vehicles, fifty dollars. For each original license or duplicate thereof to operate a motor vehicle, other than a

motorcycle, one dollar. For each original license or duplicate thereof to operate a motorcycle, one dollar. For the substitution of the registration of a motor vehicle for that of a vehicle previously registered in accordance with the provisions of section 6 of this chapter, one dollar."

§ 5. [*Act of 1908, § 10, Amended*].—Section 10 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 10. [*Nonresidents—Compliance with Foreign Law—Vehicle Used More Than Ten Days*].—Any nonresident of this state who shall have complied with the laws of the state or territory of the United States in which he resides, requiring the registration of owners of motor vehicles or of motorcycles, or of both, and the display of identification numbers of such vehicles, and who shall cause the identification numbers of such state or territory, in accordance with the laws thereof, and none other, together with the initial letter or letters of such state or territory, to be displayed on his motor vehicle while used or operated upon the public highways of this state, may bring his motor vehicle into this state for use on its highways without complying with the provisions of the foregoing sections of this act: Provided, however, that if said nonresident shall use his motor vehicle on the highways of this state more than ten (10) days in any one calendar year he shall then be subject to and shall comply with said provisions, and if he shall be convicted of violating, on any of said ten days, any provisions of sections eleven, twelve, or thirteen of this act, he shall immediately be subject to and required to comply with all the provisions of this act relating to the registration of motor vehicles and the licensing of operators thereof."

§ 6. [*Act of 1908, § 17, Amended*].—Section 17 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 17. [*Tampering with Vehicle—Records of Garage Keepers and Manufacturers*].—No person shall interfere or tamper with a motor vehicle without the permission of the owner. Every manufacturer of and dealer in motor vehicles, and every owner, proprietor, person in control, or keeper, of a garage, shall keep or cause to be kept in a book a proper record of every automobile which enters and which leaves his garage, stable, or place of business. Said book shall have blank columns and headings on every page as prescribed by the state board of public roads. All entries in said book shall be made legibly in ink. The said book shall be kept in some convenient place and shall be open at all times to the inspection of the state board of public roads or its agents, and of any police officer or constable."

§ 7. [*Act of 1908, § 24, Amended*].—Section 24 of the said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 24. [*Enforcement of Act—Expense—Annual Appropriation*].—

The state board of public roads may employ such assistance and incur such expense as may be necessary to carry out the provisions of this act, and the sum of one thousand dollars, or so much thereof as may be necessary, in addition to any sums heretofore appropriated, is hereby appropriated for the fiscal year ending December 13st, [31st,] A. D. 1909, and thereafter the sum of thirty-five hundred dollars, or so much thereof as may be necessary, is hereby annually appropriated, out of any money in the treasury not otherwise appropriated, to defray the expenses of such board in carrying out the provisions of this act; and the state auditor is hereby authorized to draw his order upon the general treasurer for the payment of said sum, upon the receipt by him of properly authenticated vouchers."

§ 8. [*Time of Taking Effect—Acts Repealed*].—This act shall take effect upon its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

An Act in amendment of Section 41 of Chapter 279 of the General Laws, entitled "Of offences against private property," as amended by Chapter 963 of the Public Laws, passed at the January session, A. D. 1902.

[Act passed May 7, 1909; Laws 1909, c. 460.]

It is enacted by the General Assembly as follows:

§ 1. [*Taking Vehicle without Permission*].—Section 41 of Chapter 279 of the General Laws, entitled "Of offences against private property," as amended by Chapter 963 of the Public Laws, passed at the January session, A. D. 1902, is hereby amended so as to read as follows:

"§ 41. Every person who shall willfully, mischievously, or without right take, drive, ride, or use any ox, or milk any cow, the property of another, without the consent of the owner or the person having the lawful care or custody of the same, shall be fined not exceeding five hundred dollars or be imprisoned one year. Every chauffeur or other person who shall drive or operate any motor vehicle upon any public road or highway in this state in the absence of the owner of such motor vehicle, without such owner's consent, shall be fined not exceeding one thousand dollars, or be imprisoned not exceeding three years. Every person who shall willfully, mischievously, or without right take or use any boat, carriage, wagon or any kind of vehicle other than a motor vehicle, or take, drive, ride, or use any horse, the property of another, without the consent of the owner or the person having the lawful care or custody of the same, shall be fined not exceeding one

thousand dollars or be imprisoned not exceeding three years: Provided, that nothing in this section contained shall be so construed as to apply to any case where property is taken with the intent to steal the same, or where it is taken under a claim or rights."

§ 2. [*Time of Taking Effect*].—This act shall take effect upon its passage.

An Act in amendment of chapter 86 of the General Laws, entitled "The registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," as amended by chapter 420 of the Public Laws, passed at the January session, A. D. 1909.

[Act approved May 2, 1910; Laws 1910, c. 590.]

It is enacted by the General Assembly as follows:

§ 1. [*Act of 1908, § 19, Amended*].—Section 19 of Chapter 86 of the General Laws, entitled "The registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," as amended by Chapter 420 of the Public Laws, passed at the January session, A. D. 1909, is hereby amended so as to read as follows:

"§ 19. [*Disposition of Fees and Fines*].—All money collected for registration and license fees and fines under the provisions of this act shall be turned over to the general treasurer, and the members of the state board of public roads shall be paid annually, from the money received from such registration and license fees and fines, the sum of five hundred dollars each, and a sum not to exceed three thousand five hundred dollars may be used by said board for clerical assistance and other expenses that may be necessary for the purpose of carrying out the provisions of this act, the balance to be used for the repair and maintenance of state roads and highways in this state under the direction of the state board of public roads; and the state auditor is hereby authorized and directed to draw his orders on the general treasurer for the payment of said sums upon the receipt by him of vouchers signed by the chairman and secretary of said board."

§ 2. [*Time of Taking Effect*].—This act shall take effect from and after its passage.

SOUTH CAROLINA.

ACT OF MARCH 7, 1905.

§ 1. Speed—Regard to Traffic—Care—Rate.

2. Speed at Crossways, Curves, Hills—Rate.

- § 3. Approaching Pedestrians or Horses—Warning—Care—Stopping.
- 4. Stopping on Signal—Stopping Motor.
- 6. Equipment—Brakes—Signaling Device—Lights—Fog.
- 7. Penalties.
- 8. "Motor Vehicles" Defined.

ACT OF FEB. 21, 1906.

- § 1. Registration of Vehicles—Certificates.
- 2. Display of Number.
- 3. Stopping on Signal—Stopping Motor.
- 4. Penalties.

An Act to regulate the running of motor vehicles upon the public highways of this state, and fixing a penalty for the violation thereof.

[Act approved March 7, 1905; 24 St. L. 965.]

Be it enacted by the General Assembly of the State of South Carolina:

§ 1. [*Speed—Regard to Traffic—Care—Rate*].—That no person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper at the time and place, having regard to the traffic and use of the highway, and its condition, or so as to endanger the life, limb or property of any person, or in any event at a greater rate than fifteen miles an hour, subject, however, to the other provisions of this act.

§ 2. [*Speed at Crossways, Curves, Hills—Rate*].—Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at the rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 3. [*Approaching Pedestrians or Horses—Warning—Care—Stopping*].—Upon approaching a person walking in the roadway of a public highway or a horse or other draft animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its approach by signaling with a horn, bell or otherwise not calculated to frighten such animals, and use every reasonable precaution to insure the safety of such person or animals, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same

under control, and if such horses or other draft animals appear frightened, to reduce the speed to not more than one-half the speed permitted by Section 2, and bring same to stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicle.

§ 4. [*Stopping on Signal—Stopping Motor*].—A person operating a motor vehicle shall, at request or upon signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in opposite direction, remain stationary so long as may be reasonable to allow such horses or animals to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horses or animals: Provided, that in case such horse or animal appears badly frightened, or he is requested to do so, the person operating such motor vehicle shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

[Compare Act of 1906, § 3.]

§ 5. [*Rules of Road—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on public highways any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person operating such motor vehicle shall reasonably turn the same to the right of the center of such highway, so as to pass without interference. Any person operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider, driver of such horse, draft animal or other vehicle shall as soon as practicable, turn to the right, so as to allow free passage on the left. Any person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centres of such highways when turning to the right, and pass to the left of such intersection when turning to the left.

§ 6. [*Equipment—Brakes—Signaling Device—Lights—Fog*].—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which the vehicle is proceeding, and a red light in reverse direction: Provided, that in case of heavy fog, if necessary, such light shall be displayed in the daytime before sunset and after sunrise.

§ 7. [*Penalties*].—Whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, be fined

"An act concerning the registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," is hereby amended so as to read as follows:

"§ 1. [*Definitions* — "*Motor Vehicle*" — "*Motorcycle*" — "*Automobile*" — "*Public Highways*" — "*Garage*," etc., etc.].—The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) 'motor vehicle' shall include all vehicles propelled by mechanical power, except road-rollers, street sprinklers, fire engines and apparatus, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks; (2) 'motorcycle' shall include only those motor vehicles having pedals and saddle, with driver sitting astride; (3) 'automobile' shall include all motor vehicles except motorcycles, commercial motor vehicles and motor trucks; (4) 'commercial motor vehicles and motor trucks' shall include such motor vehicles as are used only for the transportation of freight; (5) 'registration' has reference to vehicle; registration of a motor vehicle by the owner or person in control thereof does not give such person the right to operate the machine upon the public highways; (6) 'license' has reference to the operator; each person who operates a motor vehicle must have an operator's license; (7) 'public highways' shall include any highway, state road, public street, avenue, alley, park, parkway, driveway, or public place in any city, village, or town; (8) 'closely built up' shall mean (a) the territory of a city, village, or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of a city, village, or town contiguous to a public highway not devoted to business, where for not less than one-quarter of a mile the dwelling houses on such highway average less than one hundred feet apart, and also (c) the territory outside of a city or village contiguous to a public highway within a distance of one-half mile from any post-office: Provided, that for a distance of at least one-quarter of a mile within such limits the dwelling houses on such highway average less than one hundred feet apart; and provided, further, that the city and town officers having charge of such highway shall have placed conspicuously thereon signs, of sufficient size to be easily readable by a person using the highway, bearing the words, 'slow down to fifteen miles,' and also an arrow pointing in the direction where the speed is to be reduced; (9) 'garage' shall mean every public place where one or more motor vehicles are stored or housed, except only such places in which motor vehicles are kept by the owners thereof without payment for storage."

§ 2. [*Act of 1908, § 2, Amended*].—Section 2 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 2. [*Registration of Vehicles—Application—Fee—Number—Cer-*

tificate].—Every owner of one or more motor vehicles shall, before using the same on the public highways, file in the office of the state board of public roads, on a blank furnished by said board, a statement, under oath, of his name, residence, and post-office address, and a brief description of each motor vehicle owned or controlled by him, including the name of the maker, the number, if any, affixed by the maker, the character of the motive power, and such other information as shall be required by said board. The horse-power of every motor vehicle sought to be registered shall be determined by the state board of public roads, and such determination shall be final and conclusive. The said board upon receipt of the proper fee shall then register each such motor vehicle, assigning to it a distinguishing number or mark, and shall thereupon issue to the owner thereof a certificate of registration which shall contain the name, place of residence, and post-office address of the owner, and the number or mark assigned to such motor vehicle, and such certificate shall at all times be carried upon such motor vehicle, and shall be subject to examination upon demand by any proper officer. Application for such registration may be made by mail or otherwise to the state board of public roads or its authorized agent. If said board shall determine at any time that for any reason a motor vehicle is unsafe or improperly equipped, or otherwise unfit to be operated, it may refuse to register such vehicle, and said board may, after notice and an opportunity for a hearing thereon, for like reasons revoke any registration already recorded. The certificates provided for in this section and in section three shall continue in force until one year from the date of issue, and upon the renewal of any such certificate said board or its authorized agent shall reassign the distinguishing number or mark contained therein."

§ 3. [*Act of 1908, § 6, Amended*].—Section 6 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 6. [*Record of Statements and Certificates—Plates—Transfer of Vehicle—Loss of Certificate*].—The state board of public roads shall keep a record of all statements filed with said board and of all certificates issued by said board, which shall be open to public inspection; and said board shall furnish, from time to time, at cost price, to any person having a motor vehicle registered under the provisions of this act, as many plates or markers as may be required by such person for display upon such motor vehicle. Upon the transfer of ownership of any motor vehicle its certificate of registration shall expire, and the person in whose name such vehicle is registered shall return forthwith the certificate of registration to the state board of public roads with a written notice containing the date of such trans-

"An act concerning the registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," is hereby amended so as to read as follows:

"§ 1. [*Definitions — "Motor Vehicle" — "Motorcycle" — "Automobile" — "Public Highways" — "Garage," etc., etc.*].—The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) 'motor vehicle' shall include all vehicles propelled by mechanical power, except road-rollers, street sprinklers, fire engines and apparatus, police patrol wagons, ambulances, and such vehicles as run only upon rails or tracks; (2) 'motorcycle' shall include only those motor vehicles having pedals and saddle, with driver sitting astride; (3) 'automobile' shall include all motor vehicles except motorcycles, commercial motor vehicles and motor trucks; (4) 'commercial motor vehicles and motor trucks' shall include such motor vehicles as are used only for the transportation of freight; (5) 'registration' has reference to vehicle; registration of a motor vehicle by the owner or person in control thereof does not give such person the right to operate the machine upon the public highways; (6) 'license' has reference to the operator; each person who operates a motor vehicle must have an operator's license; (7) 'public highways' shall include any highway, state road, public street, avenue, alley, park, parkway, driveway, or public place in any city, village, or town; (8) 'closely built up' shall mean (a) the territory of a city, village, or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of a city, village, or town contiguous to a public highway not devoted to business, where for not less than one-quarter of a mile the dwelling houses on such highway average less than one hundred feet apart, and also (c) the territory outside of a city or village contiguous to a public highway within a distance of one-half mile from any post-office: Provided, that for a distance of at least one-quarter of a mile within such limits the dwelling houses on such highway average less than one hundred feet apart; and provided, further, that the city and town officers having charge of such highway shall have placed conspicuously thereon signs, of sufficient size to be easily readable by a person using the highway, bearing the words, 'slow down to fifteen miles,' and also an arrow pointing in the direction where the speed is to be reduced; (9) 'garage' shall mean every public place where one or more motor vehicles are stored or housed, except only such places in which motor vehicles are kept by the owners thereof without payment for storage."

§ 2. [*Act of 1908, § 2, Amended*].—Section 2 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 2. [*Registration of Vehicles—Application—Fee—Number—Cer-*

tificate].—Every owner of one or more motor vehicles shall, before using the same on the public highways, file in the office of the state board of public roads, on a blank furnished by said board, a statement, under oath, of his name, residence, and post-office address, and a brief description of each motor vehicle owned or controlled by him, including the name of the maker, the number, if any, affixed by the maker, the character of the motive power, and such other information as shall be required by said board. The horse-power of every motor vehicle sought to be registered shall be determined by the state board of public roads, and such determination shall be final and conclusive. The said board upon receipt of the proper fee shall then register each such motor vehicle, assigning to it a distinguishing number or mark, and shall thereupon issue to the owner thereof a certificate of registration which shall contain the name, place of residence, and post-office address of the owner, and the number or mark assigned to such motor vehicle, and such certificate shall at all times be carried upon such motor vehicle, and shall be subject to examination upon demand by any proper officer. Application for such registration may be made by mail or otherwise to the state board of public roads or its authorized agent. If said board shall determine at any time that for any reason a motor vehicle is unsafe or improperly equipped, or otherwise unfit to be operated, it may refuse to register such vehicle, and said board may, after notice and an opportunity for a hearing thereon, for like reasons revoke any registration already recorded. The certificates provided for in this section and in section three shall continue in force until one year from the date of issue, and upon the renewal of any such certificate said board or its authorized agent shall reassign the distinguishing number or mark contained therein."

§ 3. [*Act of 1908, § 6, Amended*]—Section 6 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 6. [*Record of Statements and Certificates—Plates—Transfer of Vehicle—Loss of Certificate*].—The state board of public roads shall keep a record of all statements filed with said board and of all certificates issued by said board, which shall be open to public inspection; and said board shall furnish, from time to time, at cost price, to any person having a motor vehicle registered under the provisions of this act, as many plates or markers as may be required by such person for display upon such motor vehicle. Upon the transfer of ownership of any motor vehicle its certificate of registration shall expire, and the person in whose name such vehicle is registered shall return forthwith the certificate of registration to the state board of public roads with a written notice containing the date of such trans-

fer of ownership and the name, place of residence, and address of the new owner. A person who transfers the ownership of a registered motor vehicle owned by him to another, upon the filing of a new application and upon the payment of the proper fee, may have registered in his name another motor vehicle for the unexpired portion of the year covered by the aforesaid surrendered certificates, provided the horse-power of said motor vehicle is the same or less than that of the motor vehicle first registered by him; but if the horse-power of the motor vehicle is greater than that of the motor vehicle first registered by him, the applicant shall pay, in addition to the said fee, the difference between the fee paid by him for the said vehicle first registered and the fee for the registration of a motor vehicle of the higher horse-power, as provided in section eight. The state board of public roads, at its discretion, may assign to the motor vehicle of any person who surrenders his registration certificate as herein provided, and who desires to register another motor vehicle, the register number of the motor vehicle described in the surrendered certificate. In the event that any certificate issued by said board under the provisions of this act shall be lost or destroyed, said board may issue, to the person whose certificate has been so lost or destroyed, a duplicate thereof. In the event that said board is unable to immediately furnish any plate or marker provided for by this act to any person entitled thereto, said board may issue a certificate to such person stating that such marker has been ordered and giving the number thereof, and such person may thereafter use a temporary plate or marker, similar in form to the plate or marker provided for by this act, until said plate or marker has been so furnished."

§ 4. [*Act of 1908, § 8, Amended*].—Section 8 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 8. [*Fees for Certificates and Licenses*].—The following fees shall be paid to the state board of public roads for the certificates and licenses issued by it in accordance with the provisions of this act: For the registration of every motorcycle, one dollar. For the registration of every commercial motor vehicle and every motor truck, regardless of the horse-power thereof, two dollars. For the registration of every automobile of twenty horse-power or less, five dollars. For the registration of every automobile over twenty horse-power and not more than thirty horse-power, ten dollars. For the registration of every automobile over thirty horse-power and not more than forty horse-power, fifteen dollars. For the registration of every automobile of more than forty horse-power, twenty-five dollars. For the registration of all of the motor vehicles owned by or under the control of a manufacturer of or dealer in motor vehicles, fifty dollars. For each original license or duplicate thereof to operate a motor vehicle, other than a

motorcycle, one dollar. For each original license or duplicate thereof to operate a motorcycle, one dollar. For the substitution of the registration of a motor vehicle for that of a vehicle previously registered in accordance with the provisions of section 6 of this chapter, one dollar."

§ 5. [*Act of 1908, § 10, Amended*].—Section 10 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 10. [*Nonresidents—Compliance with Foreign Law—Vehicle Used More Than Ten Days*].—Any nonresident of this state who shall have complied with the laws of the state or territory of the United States in which he resides, requiring the registration of owners of motor vehicles or of motorcycles, or of both, and the display of identification numbers of such vehicles, and who shall cause the identification numbers of such state or territory, in accordance with the laws thereof, and none other, together with the initial letter or letters of such state or territory, to be displayed on his motor vehicle while used or operated upon the public highways of this state, may bring his motor vehicle into this state for use on its highways without complying with the provisions of the foregoing sections of this act: Provided, however, that if said nonresident shall use his motor vehicle on the highways of this state more than ten (10) days in any one calendar year he shall then be subject to and shall comply with said provisions, and if he shall be convicted of violating, on any of said ten days, any provisions of sections eleven, twelve, or thirteen of this act, he shall immediately be subject to and required to comply with all the provisions of this act relating to the registration of motor vehicles and the licensing of operators thereof."

§ 6. [*Act of 1908, § 17, Amended*].—Section 17 of said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 17. [*Tampering with Vehicle—Records of Garage Keepers and Manufacturers*].—No person shall interfere or tamper with a motor vehicle without the permission of the owner. Every manufacturer of and dealer in motor vehicles, and every owner, proprietor, person in control, or keeper, of a garage, shall keep or cause to be kept in a book a proper record of every automobile which enters and which leaves his garage, stable, or place of business. Said book shall have blank columns and headings on every page as prescribed by the state board of public roads. All entries in said book shall be made legibly in ink. The said book shall be kept in some convenient place and shall be open at all times to the inspection of the state board of public roads or its agents, and of any police officer or constable."

§ 7. [*Act of 1908, § 24, Amended*].—Section 24 of the said Chapter 1592 of the Public Laws is hereby amended so as to read as follows:

"§ 24. [*Enforcement of Act—Expense—Annual Appropriation*].—

The state board of public roads may employ such assistance and incur such expense as may be necessary to carry out the provisions of this act, and the sum of one thousand dollars, or so much thereof as may be necessary, in addition to any sums heretofore appropriated, is hereby appropriated for the fiscal year ending December 13st, [31st,] A. D. 1909, and thereafter the sum of thirty-five hundred dollars, or so much thereof as may be necessary, is hereby annually appropriated, out of any money in the treasury not otherwise appropriated, to defray the expenses of such board in carrying out the provisions of this act; and the state auditor is hereby authorized to draw his order upon the general treasurer for the payment of said sum, upon the receipt by him of properly authenticated vouchers."

§ 8. [*Time of Taking Effect—Acts Repealed*].—This act shall take effect upon its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

An Act in amendment of Section 41 of Chapter 279 of the General Laws, entitled "Of offences against private property," as amended by Chapter 963 of the Public Laws, passed at the January session, A. D. 1902.

[Act passed May 7, 1909; Laws 1909, c. 460.]

It is enacted by the General Assembly as follows:

§ 1. [*Taking Vehicle without Permission*].—Section 41 of Chapter 279 of the General Laws, entitled "Of offences against private property," as amended by Chapter 963 of the Public Laws, passed at the January session, A. D. 1902, is hereby amended so as to read as follows:

"§ 41. Every person who shall willfully, mischievously, or without right take, drive, ride, or use any ox, or milk any cow, the property of another, without the consent of the owner or the person having the lawful care or custody of the same, shall be fined not exceeding five hundred dollars or be imprisoned one year. Every chauffeur or other person who shall drive or operate any motor vehicle upon any public road or highway in this state in the absence of the owner of such motor vehicle, without such owner's consent, shall be fined not exceeding one thousand dollars, or be imprisoned not exceeding three years. Every person who shall willfully, mischievously, or without right take or use any boat, carriage, wagon or any kind of vehicle other than a motor vehicle, or take, drive, ride, or use any horse, the property of another, without the consent of the owner or the person having the lawful care or custody of the same, shall be fined not exceeding one

thousand dollars or be imprisoned not exceeding three years: Provided, that nothing in this section contained shall be so construed as to apply to any case where property is taken with the intent to steal the same, or where it is taken under a claim or rights."

§ 2. [*Time of Taking Effect*].—This act shall take effect upon its passage.

An Act in amendment of chapter 86 of the General Laws, entitled "The registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," as amended by chapter 420 of the Public Laws, passed at the January session, A. D. 1909.

[Act approved May 2, 1910; Laws 1910, c. 590.]

It is enacted by the General Assembly as follows:

§ 1. [*Act of 1908, § 19, Amended*].—Section 19 of Chapter 86 of the General Laws, entitled "The registration, numbering, use, and speed of motor vehicles, and the licensing of operators of such vehicles," as amended by Chapter 420 of the Public Laws, passed at the January session, A. D. 1909, is hereby amended so as to read as follows:

"§ 19. [*Disposition of Fees and Fines*].—All money collected for registration and license fees and fines under the provisions of this act shall be turned over to the general treasurer, and the members of the state board of public roads shall be paid annually, from the money received from such registration and license fees and fines, the sum of five hundred dollars each, and a sum not to exceed three thousand five hundred dollars may be used by said board for clerical assistance and other expenses that may be necessary for the purpose of carrying out the provisions of this act, the balance to be used for the repair and maintenance of state roads and highways in this state under the direction of the state board of public roads; and the state auditor is hereby authorized and directed to draw his orders on the general treasurer for the payment of said sums upon the receipt by him of vouchers signed by the chairman and secretary of said board."

§ 2. [*Time of Taking Effect*].—This act shall take effect from and after its passage.

SOUTH CAROLINA.

ACT OF MARCH 7, 1905.

- § 1. Speed—Regard to Traffic—Care—Rate.
- 2. Speed at Crossways, Curves, Hills—Rate.

- § 3. Approaching Pedestrians or Horses—Warning—Care—Stopping.
- 4. Stopping on Signal—Stopping Motor.
- 6. Equipment—Brakes—Signaling Device—Lights—Fog.
- 7. Penalties.
- 8. "Motor Vehicles" Defined.

ACT OF FEB. 21, 1906.

- § 1. Registration of Vehicles—Certificates.
- 2. Display of Number.
- 3. Stopping on Signal—Stopping Motor.
- 4. Penalties.

An Act to regulate the running of motor vehicles upon the public highways of this state, and fixing a penalty for the violation thereof.

[Act approved March 7, 1905; 24 St. L. 965.]

Be it enacted by the General Assembly of the State of South Carolina:

§ 1. [*Speed—Regard to Traffic—Care—Rate*].—That no person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper at the time and place, having regard to the traffic and use of the highway, and its condition, or so as to endanger the life, limb or property of any person, or in any event at a greater rate than fifteen miles an hour, subject, however, to the other provisions of this act.

§ 2. [*Speed at Crossways, Curves, Hills—Rate*].—Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at the rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 3. [*Approaching Pedestrians or Horses—Warning—Care—Stopping*].—Upon approaching a person walking in the roadway of a public highway or a horse or other draft animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its approach by signaling with a horn, bell or otherwise not calculated to frighten such animals, and use every reasonable precaution to insure the safety of such person or animals, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same

under control, and if such horses or other draft animals appear frightened, to reduce the speed to not more than one-half the speed permitted by Section 2, and bring same to stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicle.

§ 4. [*Stopping on Signal—Stopping Motor*].—A person operating a motor vehicle shall, at request or upon signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in opposite direction, remain stationary so long as may be reasonable to allow such horses or animals to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horses or animals: Provided, that in case such horse or animal appears badly frightened, or he is requested to do so, the person operating such motor vehicle shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

[Compare Act of 1906, § 3.]

§ 5. [*Rules of Road—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on public highways any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person operating such motor vehicle shall reasonably turn the same to the right of the center of such highway, so as to pass without interference. Any person operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider, driver of such horse, draft animal or other vehicle shall as soon as practicable, turn to the right, so as to allow free passage on the left. Any person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centres of such highways when turning to the right, and pass to the left of such intersection when turning to the left.

§ 6. [*Equipment—Brakes—Signaling Device—Lights—Fog*].—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which the vehicle is proceeding, and a red light in reverse direction: Provided, that in case of heavy fog, if necessary, such light shall be displayed in the daytime before sunset and after sunrise.

§ 7. [*Penalties*].—Whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, be fined

not less than ten dollars nor more than one hundred dollars, or imprisonment for not more than thirty days.

§ 8. [*"Motor Vehicles" Defined*].—"Motor Vehicles," as used in this act, includes all vehicles propelled by gasoline or other explosive vapor, steam, electricity or other kindred power, but the provisions of this act do not apply to road rollers, nor to motor vehicles run upon rails or set tramways or tracks.

An Act to amend an act entitled "An act to regulate the running of motor vehicles upon the public highways of this state, and fixing a penalty for the violation thereof," approved 7th of March, 1905, prescribing duties of motor operator, increasing the penalty for violating thereof.

[Act approved Feb. 21, 1906; 25 St. L. 79.]

Be it enacted by the General Assembly of the State of South Carolina.

§ 1. [*Registration of Vehicles—Certificates*].—Every owner of an automobile or motor vehicle, whether the same be propelled by steam, gasoline, electricity, or other source of energy, shall, before operating said vehicle upon any of the streets or highways of this state file in the office of the clerk of the court of the county where such owner or operator resides, a statement containing his name and address, with a brief description of the character of such vehicle, including the name of the maker and the number of the motor vehicle, and shall pay to the clerk as a registration fee the sum of one dollar. The said clerk of court shall thereupon issue such person a certificate, properly numbered, stating that such owner or operator has registered in accordance with this section, and shall cause the name of such owner, with his address and the number of his certificate, and a description of motor vehicle, to be placed in alphabetical order in a book kept for that purpose. Any person, or persons, hereafter acquiring an automobile, or wishing to operate one, on any of the streets or highways of this state, shall, within ten days after acquiring the same, register with the clerk of court of his county, as required by this section. This section shall not apply to any person manufacturing or dealing in automobiles, or motor vehicles, except those for his own private use, or those hired out. The clerk of court shall number the certificates issued by him in the order in which they have been issued, and upon the request of the holder of such certificate, shall stamp thereon the number of the same, or issue a duplicate showing the number.

§ 2. [*Display of Number*].—It shall be unlawful for any person

to operate a motor vehicle in this state without first having placed upon the back of such vehicle, which name and number shall be plainly placed or printed thereon, the number in Arabic numerals, black on white ground, of not less than three inches in height, and each stroke to be of width not less than one-half inch.

§ 3. [*Stopping on Signal—Stopping Motor*].—A person operating a motor vehicle shall, at request or upon signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in opposite direction, remain stationary so long as may be reasonable to allow such horses or animals to pass. And if travelling in the same direction, the person or persons operating the motor vehicle shall not pass any person or persons in charge of an animal or animals, if requested by such person or persons in charge of such animal or animals not to do so, until such person or persons have gotten to a place where they could drive such animal or animals out of road, or where passage could be safely effected, or when such person or persons without just cause and excuse intentionally obstruct the passage of any motor vehicle: *Provided*, that in case such horse or animal appear badly frightened, or he is requested to do so, the person operating such motor vehicle shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

§ 4. [*Penalties*].—Any person, or persons, violating any of the provisions of this act, shall for each offence be deemed guilty of misdemeanor, and upon conviction thereof by any court of competent jurisdiction, be liable to a fine of not less than twenty dollars nor more than one hundred dollars, or imprisonment at hard labor for a term not exceeding thirty days.

SOUTH DAKOTA.

ACT OF FEB. 24, 1905.

- § 1. Definitions—"Motor Vehicle"—"Closely Built up Portions."
2. Registration of Vehicles.
3. Record of Registrations—Numbers.
4. Subsequently Acquired Vehicles — Previously Registered Vehicles.
5. Seal—Form—Display.
6. Display of Number—Mode.

- § 7. Nonresidents—Compliance with Foreign Law.
- 8. Speed—General Considerations—Rates.
- 9. Stopping on Signal—Assistance.
- 10. Equipment—Brakes—Signaling Device—Lights—Illumination of Number.
- 11. Local Regulations—Vehicles for Hire.
- 12. Penalties.
- 13. Civil Actions Not Abridged.
- 14. Acts Repealed.
- 15. Time of Taking Effect.

An Act entitled an act requiring registration of motor vehicles and regulating their use or operation upon highways or streets.

[Act approved Feb. 24, 1905; Laws 1905, c. 137.]

Be it enacted by the legislature of the State of South Dakota:

§ 1. [*Definitions—"Motor Vehicle"—"Closely Built up Portions"*].—The words and phrases used in this act shall, for the purposes of this act only, be construed as follows: 1. "Motor vehicle" shall include all vehicles propelled by any power other than muscular power, excepting such motor vehicles as run only upon rails or tracks, provided that nothing herein contained shall apply to traction engines or road rollers; 2. "Closely built up portions," shall mean the territory of a city, town or village contiguous to a public highway devoted to business or where for not less than one-fourth ($\frac{1}{4}$) of a mile the dwelling houses on such highway average not more than one hundred (100) feet apart.

§ 2. [*Registration of Vehicles*].—Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered, on a blank to be prepared and furnished by such secretary for that purpose. The filing fee shall be one (\$1) dollar.

§ 3. [*Record of Registrations—Numbers*].—The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose, and assign it a number, beginning with the number one (1) and so on in the order of filing.

§ 4. [*Subsequently Acquired Vehicles—Previously Registered Vehicles*].—Every person acquiring a motor vehicle shall file a like statement with the secretary of state, and such secretary of state shall, in like manner, file such statement, register such vehicle and assign it a number. If the vehicle has previously been registered, such fact and number assigned it shall be set forth in the statement, and the pre-

vious registration shall be cancelled; but the number of such previous registration may be assigned under the new registration.

§ 5. [*Seal—Form—Display*].—The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form, not over two (2) inches in diameter, and have stamped therein the words "Registered in the office of the secretary of state for South Dakota, under the motor vehicle law, No.," with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 6. [*Display of Number—Mode*].—Every motor vehicle shall also at all times have the number assigned to it by the secretary of state displayed on the back of such motor vehicle in such a manner as to be plainly visible, the number to be in Arabic numerals, each not less than three (3) inches in height, and each stroke to be of a width not less than one-half ($\frac{1}{2}$) inch, and also as a part of such number the two capital letters "S" and "D," each of which shall be of a height not less than two inches, and each stroke to be of a width not less than one-third of an inch.

§ 7. [*Nonresidents—Compliance with Foreign Law*].—The provisions of sections two (2) to five (5) inclusive shall not apply to motor vehicles owned and operated by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as provided by section six (6) of this act.

§ 8. [*Speed—General Considerations—Rates*].—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or in any event in the closely built up portions of a city, town or village, at a greater rate than one (1) mile in six (6) minutes, or elsewhere in a city, town or village at a greater rate than one (1) mile in four (4) minutes, or elsewhere outside of a city, town or village at a greater rate than twenty (20) miles per hour; subject, however, to the other provisions of this section. Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at rate of speed less than hereinbefore specified, and in no

event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

§ 9. [*Stopping on Signal—Assistance*].—Any person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a horse or other draft or domestic animals, upon the highway or upon land within one hundred feet of the highway, bring such motor vehicle immediately to a stop, or if such horse or other draft or domestic animals show signs of fright, he shall, whether signal is given or not, stop at once; and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animals to pass, and, if traveling in the same direction, use reasonable caution in passing such horse or animal, and the operator and occupants of any motor vehicle shall render necessary assistance to the party having in charge said horse or other draft animal in so passing.

§ 10. [*Equipment—Brakes—Signaling Device—Lights—Illumination of Number*].—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes, and also with a suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one (1) hour after sunset to one (1) hour before sunrise, one or more lamps showing white light visible within reasonable distance in the direction toward which such vehicle is proceeding, and also a red light visible in the reverse direction, showing the registered number of the vehicle in separate Arabic numerals not less than one inch in height and each stroke to be not less than one-quarter of an inch in width.

§ 11. [*Local Regulations—Vehicles for Hire*].—Cities and towns shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highway, or excluding or prohibiting any motor vehicle whose owner has complied with section two (2) or section 4 of this act, from the free use of such highway, and all such ordinances, rules or regulations now in force are hereby declared to be of no validity or effect; provided, that nothing in this act shall be construed as limiting the power of local authorities to make, enforce and maintain ordinances, rules or regulations in addition to the provisions of this act, affecting motor vehicles which are offered to the public for hire.

§ 12. [*Penalties*].—The violation of any of the provisions of this act shall be deemed a misdemeanor, punishable by a fine not exceeding twenty-five dollars (\$25) for the first offence, and punishable by a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or imprisonment not exceeding thirty (30) days in the county jail for a second or subsequent offense.

§ 13. [*Civil Actions Not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to persons or property resulting from the negligent use of the highways by a motor vehicle, or its owner, or his employee or agent.

§ 14. [*Acts Repealed*].—All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 15. [*Time of Taking Effect*].—Whereas, there is no sufficient law upon the subject hereof, an emergency exists, and is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

TENNESSEE.

ACT OF MARCH 27, 1905.

- § 1. Registration of Vehicles—Fees—Numbers—Change of Ownership.
2. Display of Number—Other Numbers.
 3. Speed—Rate—Local Regulations.
 4. Approaching Horses—Fright—Stopping—Warning—Assistance.
 5. Civil Actions—Lien upon Vehicle.
 6. Penalties.
 7. Time of Taking Effect.

An Act to require owners of automobiles to register and number the same; to regulate the operation thereof; to provide for the recovery of damages for injuries caused by the unlawful running thereof; and to fix the penalty for the violation of the provisions of this act.

[Act passed March 27, 1905; Acts 1905, c. 173.]

§ 1. [*Registration of Vehicles—Fees—Numbers—Change of Ownership*].—Be it enacted by the General Assembly of the State of Tennessee, that before any owner of any automobile, locomobile, motorcycle, or any other vehicle of like character, other than street railway cars hereinafter termed "automobile," used for the purpose of transporting or conveying persons or freight or for any other purpose, whether such automobile is propelled by steam, gasoline, or electricity, or any other mechanical power, shall operate or permit to be operated any automobile upon any street, road, highway, or any other public thoroughfare, such owner shall register such automobile with the secretary of state, giving the motive power, and make of the same, together with the name and residence address of such owner, and shall, upon the payment of a fee of two (\$2.00) dollars, receive from the

secretary of state a certificate showing such registration, which certificate shall be numbered as issued in consecutive order, beginning with "100," and shall thereafter, upon the payment of a fee of one (\$1.00) dollar, register said certificate with the county court clerk of the county in which such owner may reside. Whenever the ownership of such automobile shall become changed, by sale or otherwise, the purchaser thereof shall be required to notify the secretary of state of such transfer and receive a certificate in his name, for which he shall pay a fee of one (\$1.00) dollar, and he shall be required to register such certificate with the county court clerk of the county in which he resides, and pay therefor a fee of fifty (50) cents.

§ 2. [*Display of Number—Other Numbers*].—Be it further enacted, that a number in Arabic numerals of not less than three inches in height and one and one-half in width, corresponding to that assigned to such automobile by the secretary of state in the certificate by him issued, as hereinbefore provided for, shall be displayed in a conspicuous manner at both the front and rear of such automobile, which said number shall be plainly written, printed, stamped, or otherwise set out upon a durable and substantial plate of the size of not less than four inches in height and seven inches in length, and to be provided by the owner of such automobile. In order to prevent confusion in numbers, no municipality shall require the owner of any automobile to place thereon any other or different number than that required in this section, and such owner shall not exhibit or permit to be attached to such automobile any other or different number than that provided for in said certificate.

§ 3. [*Speed—Rate—Local Regulations*].—Be it further enacted that no automobile shall be run or driven upon any road, street, highway, or other public thoroughfare at a rate of speed in excess of twenty miles per hour; provided, that any municipality shall have the authority to prescribe a lower maximum rate of speed within its corporate limits.

§ 4. [*Approaching Horses — Fright — Stopping — Warning — Assistance*].—Be it further enacted, that whenever it shall appear that any horse or horses, driven or ridden by any person or persons, upon any street, road, highway, or other public thoroughfare, is about to become frightened by the approach of any automobile from an opposite direction, it shall be the duty of such person driving such automobile to bring the same to a full stop until such horse or horses shall have passed; and upon approaching any horse or horses from the rear it shall be the duty of the driver of any automobile to slow down his rate of speed and make known his approach to such person or persons driving or riding such horse or horses, by ringing a bell or sounding a horn, and should such horse or horses appear to be

frightened to stop such automobile for a time sufficient for such person or persons to alight, if desired, and take hold of such horse or horses, or otherwise control the same.

§ 5. [*Civil Actions—Lien upon Vehicle*].—But it further enacted, that whenever any suit for damages is brought in any court of competent jurisdiction for injuries to person or property caused by the running of any automobile in willful violation of the provisions of this act, there shall be a lien upon such automobile for the satisfaction of such recovery as the court may award whether, at the time of the injury such automobile was driven by the owner thereof or by his chauffeur, agent, employee, servant, or any other person using the same by loan, hire, or otherwise.

§ 6. [*Penalties*].—Be it further enacted, that a failure on the part of any person or persons to observe and comply with the provisions of this act shall be deemed a misdemeanor, punishable by a fine of not less than twenty-five nor more than one hundred dollars.

§ 7. [*Time of Taking Effect*].—Be it further enacted, that this act take effect thirty days after the date of its passage, the public welfare requiring it.

TEXAS.

ACT OF APRIL 15, 1907.

- § 1. Registration—Display of Number—Fee.
- 2. Speed—Rates.
- 3. Speed—General Considerations.
- 4. Racing.
- 5. Stopping on Signal.
- 6. Equipment—Signaling Device—Light.
- 7. Penalty.
- 8. Time of Taking Effect.

An Act to regulate the running of automobiles and motor vehicles and the requiring of the owner of such machine to register his name and the number of his machine with the county clerk of the county in which he resides, for the violation of which a penalty is provided.

[Act approved April 15, 1907; Laws 1907, c. 96.]

Be it enacted by the Legislature of the State of Texas:

§ 1. [*Registration—Display of Number—Fee*].—All owners of automobiles or motor vehicles shall before using such vehicles or machines upon the public roads, streets or driveways, register with

the county clerk of the county in which he resides, his name, which name shall be registered by the county clerk in consecutive order in a book to be kept for that purpose, and shall be numbered in the order of their registration, and it shall be the duty of such owner or owners to display in a conspicuous place on said machine the number so registered, which number shall be in figures not less than six inches in height. The county clerk shall be paid by such owner or owners a fee of fifty cents for each machine registered.

§ 2. [*Speed—Rates*].—No automobile or motor vehicle shall be driven or operated upon any public road, street or driveway at a greater rate of speed than eighteen miles an hour, or upon any public road, street or driveway within the built up portions of any city, town or village, the limits of which shall be fixed by the municipal officers thereof, at a greater rate of speed than eight miles an hour, except where such city or town may by an ordinance or by-law allow a greater rate of speed, provided the speed limit shall not apply to race courses or speedways.

§ 3. [*Speed—General Considerations*].—No person in charge of an automobile or motor vehicle on any public road, street or driveway shall drive the same at any speed greater than is reasonable and proper, having regard to the traffic and use of the public road, street or driveway by others, or so as to endanger the life or limb of any person thereon.

§ 4. [*Racing*].—All drivers or operators of automobiles or motor vehicles are prohibited from racing upon any public road, street or driveway.

§ 5. [*Stopping on Signal*].—Any person driving or operating an automobile or motor vehicle shall at the request, or signal by putting up the hand, or by other visible signal from a person riding or driving a horse or horses or other domestic animal, cause such vehicle or machine to come to a standstill as quickly as possible and to remain stationary long enough to allow such animal to pass.

§ 6. [*Equipment—Signaling Device—Lights*].—Every driver or operator of an automobile or motor vehicle shall have attached thereto a suitable bell or other appliance for giving notice of its approach, so that when such attachment is rung or otherwise operated it may be heard a distance of three hundred feet, and shall carry a lighted lamp between one hour after and one hour before sunrise.

§ 7. [*Penalty*].—Every one who violates any of these six sections shall be punished by a fine of not less than five dollars nor more than one hundred dollars.

§ 8. [*Time of Taking Effect*].—The near approach of the end of the session and the demand for immediate legislation on this subject constitutes an imperative public necessity that the constitutional rule

requiring bills to be read in each house of the Legislature on three several days be suspended, and this act take effect from and after its passage, and it is so enacted.

UTAH.

ACT OF MARCH 22, 1909.

- § 1. Construction of Words and Phrases Used in This Act.
- 2. Subdiv. 1. Statement to be Filed with Secretary of State—Fee.
 - 2. Motor Vehicles to be Registered and Assigned Number.
 - 3. Seal.
 - 4. Id. Must be Displayed.
 - 5. Motor Vehicles in Possession of Manufacturers or Dealers.
 - 6. Id. Operation of Vehicles Conditioned upon Compliance Herewith—Change of Ownership.
 - 7. Vehicles Owned by Non-residents.
- 3. Subdiv. 1. Speed Regulations—General Considerations—Rates.
 - 2. Id. Speed at Curves, Hills, Crossings, etc., etc.
 - 3. Id. Approaching Pedestrians or Horses—Stopping on Signal—Cutting out Muffler.
 - 4. Accidents—Stopping and Disclosing Identity.
 - 5. Public Highway for Speed Tests.
- 4. Subdiv. 1. Rules to be Observed on Highway.
 - 2. Equipment—Lights—Brakes—Signaling Device.
 - 3. Local Authority.
 - 4. Civil Actions—No Abridgment of.
- 5. Subdiv. 1. Chauffeurs Must Register—Fee.
 - 2. Register to be Kept.
 - 3. Badge—Form—Display.
 - 4. Improper Use of Badge—Fictitious Badge.
 - 5. Owners Operating Their Own Cars.
- 6. In Case of Sale, Number May Be Retained—Fee.
- 7. Disposition of Fees.
- 8. Subdiv. 1. Penalty.
 - 2. Complaints or Actions—Jurisdiction of—Process—Appeal.

An Act providing for the registration and numbering of motor vehicles and chauffeurs, and their use of the public highways, and imposing penalties for the violation of its provisions.

[Act approved March 22, 1909; Laws 1909, c. 113.]

Be it enacted by the Legislature of the State of Utah:

§ 1. *Construction of Words and Phrases Used in This Act.*—The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows:

(1) "Motor vehicle" shall include all vehicles propelled by any other than muscular power, excepting such motor vehicles as run only upon rails or tracks; provided, that nothing herein contained shall, except as otherwise provided, apply to motor cycles, motor bicycles, traction engines, road rollers, fire engines, ambulances or police patrol wagons. (2) "Public highways" shall include any highway, country road, state road, public street, avenue, alley, park, parkway, driveway or public place in any city, town or village. (3) "Closely built up" shall mean, (a) the territory of any county, incorporated city or town contiguous to a public highway which is at that point built up with structures devoted to business. (b) The territory of any county, incorporated city, town or village contiguous to a public highway not devoted to business where for not less than one-quarter of a mile the dwelling houses on such highway average less than three hundred feet apart, and also (c) the territory outside of a city, town or village contiguous to a public highway within a distance of one-half mile from any postoffice; provided that for a distance of at least one-quarter of a mile within such limits the dwelling houses on such highway average less than three hundred feet apart; and provided, further, that the local authorities having charge of such highway shall have placed conspicuously thereon signs of sufficient size to be easily read by a person using the highway, bearing the words "Slow down to ten miles per hour," and also an arrow pointing in the direction where the speed is to be reduced. (4) "Local authorities" shall include all officers of counties, cities, towns, or villages, as well as all boards, councils, trustees, committees, and other public officials of such counties, towns, cities or villages. (5) "Chauffeur" shall mean any person operating a motor vehicle as mechanic, employee or for hire.

§ 2. Subdiv. 1. *Statement to Be Filed with Secretary of State—Fee.*—Every person now or hereafter acquiring or owning a motor vehicle, shall, for every vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered, including the name of the maker, factory number, style of vehicle and motor power, on a blank to be prepared and furnished by the secretary of state for that purpose; the filing fee therefor shall be two dollars.

Subdiv. 2. *Motor Vehicles to be Registered and Assigned Number.*—The secretary of state shall thereupon file such statement in

his office, register such motor vehicle in a book or index to be kept for that purpose, and assign it a distinctive number.

Subdiv. 3. *Seal*.—The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be in circular form, approximately two inches in diameter, and have stamped thereon the words "Registered motor vehicle, No. ——— State of Utah," with the registration number inserted therein; which seal shall hereafter at all times be conspicuously displayed on the motor vehicle, to which such number has been assigned.

Subdiv. 4. *Id. Must be Displayed*.—Every motor vehicle shall at all times, while being used or operated upon the public highways of this state, have the number assigned to it by the Secretary of State displayed on the back or rear of such vehicle, in a conspicuous place and manner, securely fastened so as not to swing, and so as to be plainly visible, the numbers to be in Arabic numerals and upon a plate or marker, the said number to be followed by the initial letter of this state on the plate or marker, the figures thereon to be four inches high and each stroke thereof to be one-half and the said letter thereon to be not less than one inch in height, one inch wide, and at all times unobscured.

Subdiv. 5. *Motor Vehicles in Possession of Manufacturers or Dealers*.—A manufacturer of or dealer in motor vehicles or a proprietor of taxicabs shall register one vehicle of each style or type manufactured, dealt in or used by him, and be entitled to as many duplicate registration seals for each type or style so manufactured, dealt in or used as he may desire on payment of an additional fee of fifty cents for each duplicate seal, said duplicate seals to be designated by letters of the alphabet. If a registration seal and the corresponding number shall thereafter be affixed and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with this act, until such vehicle shall be sold. Nothing in this subdivision shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use.

Subdiv. 6. *Id. [Operation of Vehicles Conditioned upon Compliance Herewith—Change of Ownership]*.—No motor vehicle shall be used or operated upon the public highways of this state after thirty days from the time this act takes effect unless the owner shall have complied in all respects with this section, except that any person purchasing a motor vehicle from a manufacturer or dealer or other person after this act goes into effect shall be allowed to operate such motor vehicle upon the public highways for a period of ten days after the purchase and delivery thereof, provided that during such

period such motor vehicle shall bear the registration number and seal of the previous owner under which it was operated or might have been operated by him.

Subdiv. 7. *Vehicles Owned by Non-residents*.—The provisions of this section shall not apply to motor vehicles owned by nonresidents of the state, and only temporarily within this state; provided, that owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state or territory of their residence, and the registration number showing the initial letter of such state or territory shall be displayed on such vehicle substantially as provided in this section.

§ 3. Subdiv. 1. *Speed Regulations—[General Considerations—Rates]*.—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper having regard to the width, character, traffic and use of the highway, or so as to endanger life or limb on any public highway where the territory contiguous thereto is closely built up, at a greater rate of speed than one mile in six minutes; or elsewhere in any incorporated city or town, or village, at a greater rate than one mile in four minutes, or elsewhere outside of any incorporated city or town, or village, at a greater rate than one mile in three minutes; subject, however, to the other provisions of this act.

Subdiv. 2. *Id. [Speed at Curves, Hills, Crossings, etc., etc.]*.—Upon approaching a bridge, dam, sharp curve, dugway or deep descent, and also in traversing such bridge, dam, curve, dugway or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed not exceeding one mile in ten minutes, and upon approaching a crossing of intersecting highways at a rate of speed not greater than six miles per hour.

Subdiv. 3. *Id. [Approaching Pedestrians or Horses—Stopping on Signal—Cutting out Muffler]*.—Upon approaching any person walking in the roadway or traveled portion of any public highway, or a horse or any other draft animal being led, ridden, or driven therein, or a crossing of intersecting public highways, or a bridge or a sharp turn or curve, dugway, or a steep descent, and also in passing such person, horse or other draft animal, and in traversing such crossing, bridge, turn, curve, dugway or descent, the person operating the motor vehicle shall have the same under control and shall reduce its speed. If such horse or other draft animal being so led, ridden, or driven shall appear to be frightened, or if the person in charge thereof shall request or signal so to do, by putting up his hand, the person operating the motor vehicle shall immediately stop, and if traveling in the opposite direction, shall remain stationary so long as may be reasonable to allow such horse or animal to pass; or, if traveling in the same direc-

tion, shall use reasonable caution in thereafter passing such horse or animal, so as to prevent accidents and insure the safety of others, and to prevent frightening the same, and shall not use the exhaust cut-out of such vehicle when so approaching or passing such horse or other draft animal.

Subdiv. 4. *Accidents—[Stopping and Disclosing Identity].*—In case of accident to a person or property on the public highways, due to the operation thereon of a motor vehicle, the person operating such motor vehicle shall stop, and, upon request of a person injured, or any person present, give such person his name and address, and, if not the owner, the name and address of such owner.

Subdiv. 5. *Public Highway for Speed Tests.*—Local authorities may, notwithstanding the other provisions of this section, set aside for a given time a specified public highway for speed tests or races, to be conducted under proper restrictions for the safety of the public.

§ 4. Subdiv. 1. *Rules to be Observed on Highway.*—Whenever a person operating a motor vehicle shall meet on the public highway any other person riding or driving a horse or horses, or other draft animals, or any other vehicle, the person so operating such motor vehicle shall reasonably turn the same to the right so as to give half of the traveled road, if practicable, and a fair and equal opportunity to pass, to the other without interference; or, if they are traveling in the same direction, the person overtaking shall pass on the left side of the person so overtaken, and the person overtaken shall give the other a convenient opportunity so to pass, if it can be done without endangering his own vehicle, person, horse, or other draft animals.

Subdiv. 2. *Equipment — Lights — [Brakes — Signaling Device].*—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes, and also with suitable bell, horn, or other signal, and be so constructed as to exhibit, during the period from one hour after sunset to one hour before sunrise, two lamps showing white lights visible within a reasonable distance in the direction towards which such vehicle is proceeding, and also a red light visible in the reverse direction.

Subdiv. 3. *Local Authority.*—Subject to the provisions of this act, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways or excluding or prohibiting any motor vehicle whose owner has complied with section 2 of this act from the use of such highways, except such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or except as herein provided, in any way affecting the registration or numbering of motor vehicles or prescribing a slower rate of speed

than herein specified at which such vehicles may be operated, or by the use of the highways by such vehicles, contrary to or inconsistent with the provisions of this act.

Subdiv. 4. *Civil Actions*—[*No Abridgment of*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from the negligent use of the highways by a motor vehicle or its owner or his employee agent.

§ 5. Subdiv. 1. *Chauffeurs Must Register—Fee*.—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the secretary of state, on a blank to be supplied by such secretary, a statement which shall include his name and address and the trade name and motive power of the motor vehicle or vehicles he is able to operate, and shall pay a registration fee of two dollars.

Subdiv. 2. *Register to be Kept*.—The secretary of state shall thereupon file such statement in his office, register such chauffeur in a book or index to be kept for such purpose, and assign him a number.

Subdiv. 3. *Badge — [Form Display]*. — The secretary of state shall forthwith, upon such registration and without other fee, issue and deliver to such chauffeur a badge of aluminum or other suitable metal, which shall be in oval form, and the greater diameter of which shall not be more than two inches, and such badge shall have stamped thereon the words: "Registered Chauffeur No. —, State of Utah," with the registration number inserted therein, which badge shall thereafter be worn by such chauffeur pinned to his clothing in a conspicuous place at all time while he is operating a motor vehicle upon the public highways.

Subdiv. 4. *Improper Use of Badge — [Fictitious Badge]*. — No chauffeur, having registered as hereinbefore provided, shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle wear any badge belonging to another person, or a fictitious badge.

Subdiv. 5. *Owners Operating Their Own Cars*.—No person shall operate a motor vehicle as chauffeur upon the public highway after thirty days from the time this act takes effect, unless such person shall have complied in all respects with the provisions of this section. Nothing in this section shall apply to owners operating their own cars.

§ 6. [*In Case of Sale, Number May Be Retained—Fee*].—An owner of an automobile desiring to sell or dispose of said vehicle shall immediately notify the secretary of state of such transfer, and may upon his request, and the payment of \$2.00 registration fee, have the number apply to any other automobile owned or operated by him not already registered as provided for.

§ 7. [*Disposition of Fees*].—All fees received or collected under the provisions of this act shall be paid into the State Treasury to be applied to the state road fund.

§ 8. Subdiv. 1. [*Penalty*].—The violation of any of the provisions of this act by any owner, chauffeur or operator of any motor vehicle, shall be deemed a misdemeanor, and punishable as such.

Subdiv. 2. *Complaints or Actions* — [*Jurisdiction of — Process — Appeal*].—In all complaints or actions for the violation of any of the provisions of this act the justice of the peace before whom the same shall be tried shall have jurisdiction and power to render judgment therein, and issue process of execution and mittimus thereon; but the defendant shall have the right to appeal as in other cases.

VERMONT.

ACT OF DEC. 10, 1904.

- § 1. Registration of Vehicles—Application—Certificate—Record of Registrations—Sale of Vehicles.
- 3. Operation of Vehicles Conditioned upon Registration—Display of Number.
- 4. Operator's License—Application—Number—Vehicles for Hire—Suspension or Revocation—Qualifications of Licensees.
- 6. Nonresidents — Unlicensed Persons Driving with Licensed Operators.
- 7. Approaching Horses—Care—Stopping.
- 8. Speed.
- 11. Device to Prevent Use—Leaving Vehicle Unattended.
- 14. Act Repealed Hereby.
- 15. Time of Taking Effect.

ACT OF DEC. 19, 1906.

- § 2. Penalties—Jurisdiction of Offenses.
- 3. Suspension or Revocation of License—Penalties—Record of Convictions—Arrest without Warrant.
- 4. Registration and License Fees.
- 6. Nonresidents.
- 7. Number Plates—Form—Display—Illumination.
- 8. Driving while Intoxicated.
- 9. Disposition of Fees and Fines.
- 10. Acts Repealed and Adopted Hereby.

ACT OF JAN. 28, 1909, No. 99.

- § 1. Registration of Vehicles Required.

§ 2. Registration of Vehicles—Details of Requirement.

- Subdiv. 1. Application.
- 2. Fees.
- 3. Fees for Vehicles Registered in 1907.
- 4. Duration of Registration.
- 5. Fees Paid Since 1908.
- 6. Fees of Previously Registered Vehicles.
- 7. Fees for Vehicles Registered August 1st.
- 8. Transfer of Vehicle—Reregistration.
- 9. Fee for Reregistration.
- 3. Taxation of Vehicles.
- 6. Display of Number—Plates—Painting Radiator.
- 7. Driving without Consent of Owner.
- 8. Time of Taking Effect.

ACT OF JAN. 28, 1909, No. 100.

- § 1. Nonresidents.
- 2. Penalties.
- 3. Time of Taking Effect.

ACT OF JAN. 28, 1909, No. 101.

§ 1. Operation—Negligence—Speed—Local Regulations—Signs

ACT OF NOV. 16, 1910.

- § 1. Nonresidents—Registration of Vehicles—Comity.
- 2. Time of Taking Effect.

ACT OF NOV. 18, 1910.

- § 1. Driving without License or Permission of Owner.
- 2. Time of Taking Effect.

ACT OF DEC. 3, 1910.

- § 1. Motor Cycle—Seal—Display.
- 2. Time of Taking Effect.

ACT OF DEC. 7, 1910.

- § 1. Chauffeurs—Display of Number—Badge.
- 2. Time of Taking Effect.

ACT OF DEC. 9, 1910.

- § 1. Equipment—Brake—Muffler—Signaling Device—Lights.
- 2. Time of Taking Effect.

ACT OF DEC. 15, 1910.

- § 1. Registration of Vehicles—Statement of Horse Power.
- 2. Time of Taking Effect.

ACT OF JAN. 12, 1911.

- § 1. Fees Collected Hereunder—Disposition of.

ACT OF JAN. 13, 1911, No. 132.

- § 1. Registration by Manufacturers and Dealers.
2. Time of Taking Effect.

ACT OF JAN. 13, 1911, No. 133.

- § 1. Registration of Vehicles—Placing Nails, Glass, etc., in Highway.
2. Time of Taking Effect.

ACT OF JAN. 14, 1911.

- § 1. Nonresidents—Registration of Vehicles—Operator's License.
2. Time of Taking Effect.

ACT OF JAN. 27, 1911.

- § 1. "Automobile" and "Motor Vehicle" Defined.
2. Operation of Traction Engines.
3. Time of Taking Effect.

ACT OF JAN. 28, 1911.

- § 1. Rules of the Road § 2. Time of Taking Effect.

An Act to provide for registering, numbering and regulating the speed of automobiles and motor vehicles and for licensing the operator thereof.

[Act approved Dec. 10, 1904; Acts 1904, No. 86.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Registration of Vehicles—Application—Certificate—Record of Registrations—Sale of Vehicles*].—All automobiles and motor vehicles shall be registered by the owner or person in control thereof in accordance with the provisions of this act. Application for such registration may be made, by mail or otherwise, to the secretary of state or any agent thereof designated for this purpose, upon blanks prepared under his authority. The application shall contain in addition to such other particulars as may be required by said secretary, a statement of the name, place of residence and address of the applicant, with a brief description of the automobile or motor vehicle, including the name of the maker, the number, if any, affixed by the maker, the character of the motor power, and the amount of such motor power stated in figures of horse power; and with such application shall be deposited a registration fee of two dollars. The said secretary of state or his duly authorized agent shall then register, in

a book to be kept for the purpose, the automobile or motor vehicle described in the application, giving to such automobile or motor vehicle a distinguishing number or other mark, and shall thereupon issue to the applicant a certificate of registration. Said certificate shall contain the name, place of residence and address of the applicant and the registered number or mark, shall prescribe the manner in which said registered number or mark shall be inscribed or displayed upon the automobile or motor vehicle, and shall be in such form and contain such further provisions as the secretary of state may determine. A proper record of all applications and of all certificates issued shall be kept by the secretary of state in his office, and shall be open to the inspection of any person during reasonable business hours. The certificate of registration shall always be carried in some easily accessible place in the automobile or motor vehicle described therein. Upon the sale of any automobile or motor vehicle its registration shall expire, and the vendor shall immediately return the certificate of registration to the secretary of state, with notice of sale, and of the name, place of residence and address of the vendee. [Compare Act of 1908, No. 99, § 2.]

§ 2. [Superseded by Act of Dec. 19, 1906.]

§ 3. [*Operation of Vehicles Conditioned upon Registration—Display of Number*].—Except as otherwise provided herein, no automobile or other motor vehicle shall, after the first day of May in the year nineteen hundred and five, be operated upon any public highway or private way laid out under authority of statute unless registered as heretofore provided, and the registered number or mark of every automobile and motor vehicle operated as aforesaid shall at all times plainly be displayed thereon in Arabic numerals not less than four inches long, and conforming in this and other details to the requirements prescribed by the secretary of state in his certificate of registration. [Compare Act of Jan. 13, 1911.]

§ 4. [*Operator's License—Application—Number—Vehicles for Hire—Suspension or Revocation—Qualifications of Licensees*].—License for operating automobiles and motor vehicles shall be issued by the secretary of state or duly authorized agents thereof. Application shall be made upon blanks prepared by the secretary of state for this purpose, and the licenses issued shall be in such form and shall contain such provisions as said secretary of state may determine. To such licensee shall be assigned some distinguishing number or mark, and a proper record of all applications for license and of all licenses issued shall be kept by the secretary of state at his office, and shall be open to the inspection of any person during reasonable business hours. Each license shall state the name, place of residence and address of the licensee and the distinguishing number or mark assigned to him. Special licenses for operating automobiles or motor vehicles

for hire shall be issued by the secretary of state, but no such license shall be issued until the secretary of state or his authorized agent shall have satisfied himself that the applicant is a proper person to receive it. Such licenses shall be granted for one year only. The fee for each license to operate shall be two dollars. All fees shall be deposited at the time of making the application. The secretary of state may at any time suspend or revoke any license for any violation of this act or regulation made thereunder. Before a license to operate is granted, the applicant shall present such evidence as to his qualifications as may be required by the secretary of state or agent thereof.

§ 5. [Superseded by Act of Nov. 18, 1910.]

§ 6. [*Nonresidents—Unlicensed Persons Driving With Licensed Operators*].—Automobiles or motor vehicles owned by nonresidents of this state and driven by a person residing and licensed in some other state, may be operated on the roads and highways of this state, subject, however, to the speed limitations contained in section eight, and to such further regulations as the secretary of state may make. The provisions of this and the preceding section shall not prevent the operating of automobiles by unlicensed persons if riding with or accompanied by a licensed chauffeur or operator. [Compare Act of Nov. 16, 1910.]

§ 7. [*Approaching Horses—Care—Stopping*].—Every person having control or charge of an automobile or motor vehicle shall, whenever upon any public street or way and approaching any vehicle drawn by a horse or horses, or approaching any horse upon which any person is riding, operate, manage and control such automobile or motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of such horse or horses and to insure the safety and protection of such persons so driving or riding the same. And if such horse or horses appear to be frightened and the driver of said horse or horses shall stop them because of such fright, the person in control of such automobile or motor vehicle shall stop the same, and shall not proceed further towards such horse or horses until they shall have passed said automobile or motor vehicle or shall have reached a place of safety, unless the rider or driver of such horse or horses shall signal the person having in charge such automobile or motor vehicle, to advance.

§ 8. [*Speed*].—No automobile or motor vehicle shall be run on any public way or private way laid out under the authority of statute outside the limits of a city or incorporated village, or the thickly settled or business part of a town or fire district at a speed exceeding fifteen miles an hour, or within a city, incorporated village or the thickly settled or business part of a town or fire district, at a speed exceeding ten miles an hour. Upon approaching a crossing of

intersecting ways, also in traversing a crossing or intersection, and in going round a corner, or a curve in a highway, every person operating an automobile or motor vehicle shall run it at a rate of speed less than that thereinbefore specified and at no time greater than is reasonable and proper, having regard to traffic and the use of way and the safety of the public, and in no event exceeding six miles an hour.

§ 9. [Superseded by Act of Dec. 19, 1906.]

§ 10. [Superseded by Act of Dec. 9, 1910.]

§ 11. [*Device to Prevent Use — Leaving Vehicle Unattended*].—Every automobile or motor vehicle shall be provided with a lock, key or other device to prevent said vehicle from being set in motion by its own motive power, and no person shall allow any such vehicle operated by him to stand or remain unattended in any street, avenue, road, alley, highway, park, parkway or other public place without first locking or making fast the vehicle as herein provided.

§ 12. [Superseded by Act of Jan. 12, 1911.]

§ 13. [Superseded by Act of Jan. 27, 1911.]

§ 14. [*Act Repealed Hereby*].—Number sixty-four of the acts of nineteen hundred and two is hereby repealed.

§ 15. [*Time of Taking Effect*].—Except as otherwise herein provided this act shall take effect from its passage.

An Act to regulate the running of motor vehicles and to license the operator thereof.

[Act approved Dec. 19, 1906; Acts 1906, No. 113.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [Superseded by Act of Jan. 28, 1909, No. 101.]

§ 2. [*Penalties—Jurisdiction of Offenses*].—A person who violates a provision of the preceding section shall be fined not more than fifty dollars or be imprisoned not more than ten days, or both for the first offense, with costs of prosecution, and for each subsequent offense said person shall be fined not more than two hundred dollars nor less than twenty-five dollars or be imprisoned not more than six months, or both, with costs of prosecution. Justices of the peace, municipal and city courts shall have concurrent jurisdiction with the county courts of offenses arising under the provisions of this act and of No. 86 of the Acts of 1904.

§ 3. [*Suspension or Revocation of License—Penalties—Record of Convictions—Arrest Without Warrant*].—Section 9 of No. 86 of the Acts of 1904 is hereby amended so as to read as follows, viz.:

Section 9. The secretary of state may, at any time, suspend or revoke a license for a violation of a provision of this act or any

amendment thereto or any regulations made thereunder, and said secretary, or his duly authorized agent, may, after due hearing, suspend or revoke the certificate or license issued under this act for any cause which he deems sufficient. A person violating a provision of this act for which no penalty is herein otherwise provided shall be fined not more than one hundred dollars. A person operating or causing or permitting a person to operate an automobile or motor vehicle after revocation or suspension of a certificate for such vehicle under this act shall be imprisoned ten days or fined not more than two hundred dollars nor less than fifty dollars, or both. A court convicting a person of violating a provision of this act shall forthwith notify the secretary of state of such conviction, with the number or mark of the automobile or motor vehicle of such convicted person, and all other information obtained. Such information shall be recorded by the secretary of state in his office; and if, at any time, it appears that a person has been convicted of a first offense in more than one court in this state, each conviction subsequent to the date of the first one shall be deemed a subsequent offense and such person shall be subject to further prosecution therefor. A person who violates a provision of this act may be arrested without a warrant and the officer making the arrest shall take such person before a justice, municipal or city court, there to be held until a proper warrant can be issued.

§ 4. [*Registration and License Fees*].—The registration fee provided under section six of No. 86 of the Acts of 1904, shall be three dollars for each motor vehicle of twenty horse power or less and five dollars for each motor vehicle of more than twenty horse power. The fee for a license for operating a motor vehicle shall be two dollars annually to be paid in the manner prescribed by No. 86 of the Acts of 1904.

§ 5. [Superseded by Act of Jan. 13, 1911, No. 132.]

§ 6. [*Nonresidents*].—A resident of another state or country who has complied with the laws of his state or country relating to the registration or licensing of motor vehicles shall not be required to pay a registration or license fee while operating a motor vehicle in this state, provided that such other state or country grants like privileges to residents of this state. If such nonresident is convicted of a violation of a provision of this act relating to the manner of running or operating a motor vehicle, he shall thereafter be subject to the provisions of this act relating to registration of motor vehicles and of the operators thereof. [Compare Acts of Nov. 16, 1910, and Jan. 14, 1911.]

§ 7. [*Number Plates—Form—Display—Illumination*].—The secretary of state shall furnish to each person registering a motor vehicle,

except motorcycles, two enameled iron plates which shall not be less than eleven inches in length and six inches in width. Such plates shall have a white surface with black margins of one-fourth of an inch, and the letters "VT." Such letters shall be two inches in height with one-half inch strokes. Such plates shall also bear the number given to such motor vehicle which number shall be in black Arabic figures not less than four inches in height with a stroke of three-fourths of an inch in width and such figures shall be placed at least one inch apart and be placed before the letters "VT." One of such plates shall be attached to the front of the motor vehicle in a secure manner so as to be plainly visible. The other of such plates shall be fastened to the rear of the motor vehicle in a similar manner. Such plates shall not be so arranged that they can be turned down or covered up, and shall always be kept legible. From sunset to sunrise the rear identification plates shall be illuminated from the outside, providing that the light which illuminates it is situated so that the visibility of the plate is not impaired by the arrangement. From sunset to sunrise, motorcycles shall be equipped with one lamp which shall be kept lighted while the cycle is being operated.

§ 8. [*Driving While Intoxicated*].—No person shall operate or attempt to operate a motor vehicle while in a state of intoxication.

§ 9. [*Disposition of Fees and Fines*].—The secretary of state shall, quarterly, pay to the state treasurer all fees received by him under the provisions of this act and No. 86 of the Acts of 1904. Such fees and all fines recovered for violations of the provisions of this act and of No. 86 of the Acts of 1904, shall be kept in a separate account by the state treasurer and the auditor of accounts is hereby authorized to draw orders payable out of such fees and fines for expenses incurred by the secretary of state under the provisions of this act and of No. 86 of the Acts of 1904, and any unexpended balance of such fees and fines in the hands of the state treasurer shall be added to the state highway fund. [Compare Act of Jan. 12, 1911.]

§ 10. [*Acts Repealed and Adopted Hereby*].—All acts and parts of acts inconsistent with this act are hereby repealed. The provisions of No. 86 of the Acts of 1904, in so far as such provisions are not inconsistent with the provisions of this act are herein adopted and made a part of this act.

An Act to amend sections 4076, 4077 and 4100 of the Public Statutes, relating to the registration of automobiles and motor vehicles and the disposition of the registration fees.

[Act approved Jan. 28, 1909; Acts 1908, No. 99.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Registration of Vehicles Required*].—Section 4076 of the Public Statutes is hereby amended so as to read as follows:

Section 4076. An owner of an automobile or motor vehicle shall annually cause the same to be registered as provided in chapter 176 of the Public Statutes, as amended by section 2 of this act.

§ 2. [*Registration of Vehicles—Details of Requirement*].—Section 4077 of the Public Statutes is hereby amended so as to read as follows:

§ 4077. [Subdiv. 1. *Application*].—Application for such registration shall be made to the secretary of state, upon blanks prepared by him for that purpose. Such application shall contain a statement of the name, place of residence and address of the applicant, with a brief description of the automobile or motor vehicle, including the name of its maker, the number, if any, affixed by the maker thereon, the character of its motive power and the amount of such motive power in figures of horse power together with such additional information as said secretary of state may require; and with such application shall be deposited a registration fee of one dollar for each horse power of such automobile or motor vehicle.

[Subdiv. 2. *Fees*].—The second registration fee of an automobile or motor vehicle shall be a sum equal to seventy-five per cent. of the amount of the first registration fee of such automobile or motor vehicle and the third and each successive registration fee thereafter shall be a sum equal to the amount of fifty per cent. of the first registration fee of such automobile or motor vehicle.

[Subdiv. 3. *Fees for Vehicles Registered in 1907*].—In determining the amount of the registration fees under this section in the year 1909, all automobiles or motor vehicles registered in the year 1907 or prior thereto shall be considered as having been registered twice; and all automobiles and motor vehicles registered in the year 1908 and prior to December first of said year, shall be considered as having been registered once.

[Subdiv. 4. *Duration of Registration*].—The registration of all automobiles or motor vehicles registered prior to January 31, 1909, shall expire February 1st, 1909; and the registration of all automobiles or motor vehicles registered on or after February 1st, 1909, shall expire on the thirty-first day of December following such annual registration.

[Subdiv. 5. *Fees Paid Since 1908*].—A person who has paid a registration fee since December first, 1908, shall be entitled, upon re-registering such automobile or motor vehicle, in the year 1909, to deduct such fee from the amount of the fee hereinbefore provided for

the first registration of such automobile or motor vehicle under this act.

[Subdiv. 6. *Fees of Previously Registered Vehicles*].—A person applying for registration of an automobile or motor vehicle shall, upon furnishing a registration certificate of this or any other state, showing that such automobile or motor vehicle has been registered for one year, or two years as the case may be, or upon furnishing other satisfactory proof of such prior registration, be entitled to registration of such automobile or motor vehicle upon payment of the registration fee required for the second or third registration of such automobile or motor vehicle, as the case may be.

[Subdiv. 7. *Fees for Vehicles Registered after August 1st*].—A person applying for registration of an automobile or motor vehicle on or after August first, of any year shall be entitled to have such automobile or motor vehicle registered upon payment of an amount equal to one-half of the fee which the owner of such automobile or motor vehicle would be required to pay if such automobile or motor vehicle were registered prior to August first in said year. The provisions of section 4080 of the Public Statutes, in so far as the same conflict with the foregoing provisions are hereby repealed.

[Subdiv. 8. *Transfer of Vehicle—Registration*].—A person acquiring an automobile or motor vehicle that is already registered as provided by this act shall not be required to pay an additional registration fee during the year of such registration provided that the person acquiring said automobile or motor vehicle shall within five days after coming into possession of said automobile or motor vehicle cause said automobile or motor vehicle to be registered in his name.

[Subdiv. 9. *Fee for Reregistration*].—The fee for such reregistration shall be one dollar to be added to the maintenance fund hereinafter designated. In determining the number of registrations of an automobile or motor vehicle for the purposes of annual registration such reregistration shall not be counted as an annual registration.

§ 3. [*Taxation of Vehicles*].—Automobiles or motor vehicles shall be exempt from taxation.

§ 4. [Superseded by Act of Jan. 12, 1911.]

§ 5. [Superseded by Act of Dec. 15, 1910.]

§ 6. [*Display of Number—Plates—Painting Radiator*].—Section 4093 of the Public Statutes is hereby amended by adding thereto the following:

Such plates shall also bear the date of the year of the registration of such automobile or motor vehicle. And an owner of an automobile or motor vehicle in lieu of the number plate attached to the front of an automobile or motor vehicle upon making request to and upon being authorized by, said secretary of state, and in confor-

mity with regulations prescribed by said secretary of state, cause said registration number to be painted on front of the radiator of said automobile or motor vehicle.

§ 7. [*Driving without Consent of Owner*].—Section 4087 of the Public Statutes is hereby amended by adding at the end of the section the following:

No person shall drive an automobile or motor vehicle without the consent of the owner.

§ 8. [*Time of Taking Effect*].—This act shall take effect from its passage.

An Act to amend section 4089 of the Public Statutes, relating to automobiles.

[Act approved Jan. 28, 1909; Acts 1908, No. 100.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [Superseded by Act of Nov. 16, 1910.]

§ 2. [*Penalties*].—A person violating the provisions of the preceding section shall be imprisoned not more than ten days or fined not more than two hundred dollars, or both.

§ 3. [*Time of Taking Effect*].—This act shall take effect from its passage.

An Act to amend section 4091 of the Public Statutes, relating to the speed limit of automobiles.

[Act approved Jan. 28, 1909; Acts 1908, No. 101.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Operation—Negligence—Speed—Local Regulations—Signs*].—Section 4091 of the Public Statutes is hereby amended so as to read as follows:

Section 4091. No automobile or motor vehicle shall be run on a public way or private way laid out under authority of statute, in a careless or negligent manner. If a person runs an automobile or motor vehicle at a rate of speed exceeding twenty-five miles an hour outside a city or incorporated village, or at a rate of speed exceeding ten miles an hour within a city, incorporated village or the thickly settled part of a town, or at a rate of speed exceeding ten miles an hour across any bridge of more than fifty feet span, it shall be *prima facie* evidence that the automobile or motor vehicle was run care-

lessly or negligently. Nothing herein contained shall be so construed as to affect the rights of the selectmen of a town or the proper officials of a city, or incorporated village, and said officials shall have authority to make special regulations as to the speed of such automobiles or motor vehicles upon narrow or dangerous roads or ways. Such special regulations shall be subject to an appeal to the state highway commissioner, whose decision in the case shall be final. No such special regulations shall be effective unless notice of the same is posted conspicuously in such road or way a reasonable distance from a point where such narrow or dangerous place exists.

An Act to amend Section 4089 of the Public Statutes as amended by Section 1 of No. 100 of the Acts of 1908, relating to the registration of automobiles and motor vehicles of nonresidents.

[Act approved Nov. 16, 1910; Laws 1910, No. 136.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Nonresidents—Registration of Vehicles—Comity.*].—Section 4089 of the Public Statutes, as amended by section 1 of No. 100 of the Acts of 1908, is hereby amended so as to read as follows: Section 4089. The provisions of this chapter relating to the registration of automobiles and motor vehicles and the granting of operators' licenses shall not apply to an automobile or motor vehicle owned by a non-resident, other than a foreign corporation doing business in this state, nor to a non-resident operator other than the operator of an automobile or motor vehicle belonging to a foreign corporation doing business in this state, provided that the owner of an automobile or motor vehicle, and the operator has complied with the provisions of law of the foreign country, state, territory, or federal district of his residence relative to the registration of automobiles or motor vehicles, and the granting of operators' licenses. The foregoing provisions, however, shall be operative as to an operator or as to the owner of an automobile or motor vehicle only to the extent that under the laws of the foreign country, state, territory or federal district of his residence like exemption and privileges are granted to operators, and to the owners of automobiles or motor vehicles duly registered under the laws of this state.

§ 2. [*Time of Taking Effect*].—This act shall take effect January 1, 1911.

An Act to amend Section 4087 of the Public Statutes, relating to operators' licenses.

[Act approved Nov. 18, 1910; Laws 1910, No. 134.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Driving without License or Permission of Owner*].—Section 4087 of the Public Statutes is hereby amended so as to read as follows: Section 4087. No person shall operate an automobile or motor vehicle upon a public highway, or private way laid out under authority of statute, unless licensed so to do as provided in this chapter. No person shall operate an automobile or motor vehicle for hire unless specially licensed so to do as provided in this chapter; provided, however, that a person owning an automobile or motor vehicle registered as required by this chapter, and holding an operator's license, may carry persons for hire in such automobile or motor vehicle. No person shall employ for hire as chauffeur or operator of an automobile or motor vehicle, a person not specially licensed as provided in this chapter. No person shall drive an automobile or motor vehicle without the consent of the owner. The provisions of this chapter shall not prevent the operation of automobiles or motor vehicles by unlicensed persons riding with or accompanied by a licensed chauffeur or operator, but the foregoing provision shall not apply to persons whose licenses are not in force because of the suspension or revocation of such licenses. All applications filed under this chapter shall be under oath.

§ 2. [*Time of Taking Effect*].—This act shall take effect from its passage.

An Act to amend Section 4093 of the Public Statutes as amended by Section 6 of No. 99 of the Acts of 1908, relating to seals for motor cycles.

[Act approved Dec. 3, 1910; Laws 1910, No. 138.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Motor Cycle—Seal—Display*].—Section 4093 of the Public Statutes, as amended by section 6 of No. 99 of the Acts of 1908, is hereby amended by adding thereto the following: The secretary of state shall furnish to each person registering a motor cycle a seal, circular in form, approximately two inches in diameter, bearing thereon the words "registered motor cycle number ———, Vt." together with the year of the issue thereof and with the registration number of the motor cycle stamped or otherwise suitably inscribed thereon. Such seal shall be valid only during the period of time for which it is issued. A motor cycle operated on a public highway, or a private way laid out under authority of statute, shall have conspicuously displayed thereon the seal bearing the registration number hereinbefore provided for.

Said seal shall be fastened securely to some part of the vehicle or to some contrivance firmly attached thereto, in the rear of the saddle.

§ 2. [*Time of Taking Effect*].—This act shall take effect January 1, 1911.

An Act to amend Section 4088 of the Public Statutes relating to chauffeurs' badges.

[Act approved Dec. 7, 1910; Laws 1910, No. 135.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Chauffeurs—Display of Number—Badge*].—Section 4088 of the Public Statutes is hereby amended so as to read as follows: viz: Section 4088. A chauffeur or operator specially licensed for hire shall, while so acting, display the distinguishing number or mark assigned to him, in such manner as may be prescribed by the secretary of state, but a chauffeur or operator specially licensed who operates an automobile or motor vehicle, not carrying passengers for hire, shall not be required to display such badge. Said secretary of state shall, when issuing a special license, furnish to each chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon.

§ 2. [*Time of Taking Effect*].—This act shall take effect January 1, 1911.

An Act to amend Section 4094 of the Public Statutes, relating to lights on automobiles or motor vehicles.

[Act approved Dec. 9, 1910; Laws 1910, No. 139.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Equipment—Brake—Muffler—Signalling Device—Lights*].—Section 4094 of the Public Statutes is hereby amended so as to read as follows, viz: Section 4094. An automobile or motor vehicle while being operated shall be provided with an adequate brake, a muffler, and with a suitable bell or horn or other means of signalling; and the person in control or charge of such automobile or motor vehicle shall, in going around a curve in a highway, or on approaching an intersection of the same, signal with such bell or horn. An automobile or motor vehicle operated during the period from forty-five minutes after sunset to forty-five minutes before sunrise shall display at least two lighted lamps on the front, and one on the rear of such automobile or motor vehicle which shall also display a red light visible from the rear. The rays of such rear lamp shall shine upon the number plate carried

on the rear of such automobile or motor vehicle in such manner as to render the numerals thereon visible for at least fifty feet in the direction from which such automobile or motor vehicle is proceeding. The light of the front lamps shall be visible at least two hundred feet in the direction in which the automobile or motor vehicle is proceeding. A motor cycle operated during the period from forty-five minutes after sunset to forty-five minutes before sunrise, shall display at least one lighted lamp on the front of such motor cycle.

§ 2. [*Time of Taking Effect*].—This act shall take effect January 1, 1911.

An Act to amend Section 4077 of the Public Statutes, as amended by Section 2 of No. 99 of the Acts of 1908, relating to the rating of automobiles and motor vehicles.

[Act approved Dec. 15, 1910; Laws 1910, No. 131.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Registration of Vehicles—Statement of Horse Power*].—Section 4077 of the Public Statutes, as amended by section 2 of No. 99 of the acts of 1908, is hereby amended by adding thereto the following: The amount of such motor power shall be stated in figures of horse power in accordance with the rating established by the association of licensed automobile manufacturers and fractions of a horse power shall not be considered.

§ 2. [*Time of Taking Effect*].—This act shall take effect January 1, 1911.

An Act relating to the disposition of fees by the state highway commission.

[Act approved Jan. 12, 1911; Laws 1910, No. 140.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Fees Collected Hereunder—Disposition of*].—Section 4100 of the Public Statutes is hereby amended so as to read as follows: Section 4100. *Disposition of fees.* All fees required by this chapter shall be deposited with the secretary of state at the time of making application, and said secretary shall pay the same quarterly into the state treasury. All expenses incurred by the secretary of state under the provisions of this chapter shall be deducted from the gross amount of fees received under the provisions of this chapter, and the balance shall be set apart as a separate fund to be called the "maintenance fund," to

be used in the repair and maintenance of the main thoroughfares and state roads, and said money shall be expended upon such thoroughfares under the supervision and direction of the state highway commissioner. Said commissioner shall make such rules and regulations respecting the expenditure and apportionment of such fund, and shall cause such amounts of money to be expended in the several counties of the state under the provisions of this chapter, as in his judgment seems for the best interests of the state. The said "maintenance fund" is appropriated for the purposes specified herein and the auditor of accounts shall draw his orders therefor upon the requisition and approval of the state highway commissioner.

An Act to amend Section 4081 of the Public Statutes as amended by Section 5 of No. 99, Acts of 1908, relating to dealers' certificates.

[Act approved Jan. 13, 1911; Laws 1910, No. 132.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Registration by Manufacturers and Dealers*].—The term manufacturer or dealer, as used in this section, shall apply to any person, firm or corporation manufacturing or dealing in automobiles or motor vehicles. A manufacturer or dealer in automobiles or motor vehicles, instead of registering each automobile or motor vehicle owned or controlled by him for purposes of sale, may make application for a general distinguishing number for such automobiles or motor vehicles owned or controlled by him for purposes of sale, upon a blank to be provided by the secretary of state for that purpose. Said secretary may, if he is satisfied of the facts stated in such application, grant such application and issue to the applicant a certificate of registration, containing the name, place of residence and address of such applicant, and the general distinguishing number assigned to him, and such further provisions as said secretary may determine. Each such manufacturer or dealer shall, within five days after the sale or exchange of any automobile or motor vehicle by him, notify said secretary of such sale or exchange and give the name and address of the person acquiring such automobile or motor vehicle and such other information as said secretary may require. All automobiles or motor vehicles owned or controlled by said manufacturer or dealer for purposes of sale shall, while so owned or controlled, be regarded as registered under such distinguishing number but the provisions of this section shall not be construed to apply to an automobile or motor vehicle employed by a man-

manufacturer or dealer for his private use or for hire. The fee for such certificate shall be twenty-five dollars and all such certificates shall expire on December thirty-first of the year in which such certificates are issued.

§ 2. [*Time of Taking Effect*].—This act shall take effect from its passage.

An Act to amend Section 4082 of the Public Statutes relating to the operation of automobiles or motor vehicles.

[Act approved Jan. 13, 1911; Laws 1910, No. 133.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Registration of Vehicles Required—Placing Nails, Glass, etc., in Highway*].—Section 4082 of the Public Statutes is hereby amended so as to read as follows: Section 4082. No automobile or motor vehicle shall be operated upon a public highway, or a private way laid out under authority of law, unless registered as provided in the preceding sections. No person shall place or cause to be placed upon any highway tacks, nails, wire, scrap metal, glass, crockery, or other substance injurious to the tires of vehicles.

§ 2. [*Time of Taking Effect*].—This act shall take effect from its passage.

An Act relating to the registration of automobiles and motor vehicles by nonresidents.

[Act approved Jan. 14, 1911; Laws 1910, No. 137].

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Nonresidents—Registration of Vehicles—Operator's License*].—In case a nonresident, other than a foreign corporation doing business in this state, operates an automobile or motor vehicle in this state during the exemption period granted by law and said nonresident desires to operate an automobile or motor vehicle for a longer period, said nonresident shall make application for the registration of the automobile or motor vehicle which he desires to operate and for an operator's license in the same manner as residents; provided, however, that said nonresident may register an automobile or motor vehicle for a period of three months and the fee for such registration shall be an amount equal to one-fourth the annual registration fee of such automobile or motor vehicle. The fee for an operator's license or for a pro-

professional chauffeur's or special license shall be the same as for residents. The registration of an automobile or motor vehicle in the same year for a part of which registration is applied for, shall not, in determining the number of annual registrations, be counted as an annual registration. If a nonresident operates an automobile or motor vehicle after the period of three months hereinbefore provided for, he shall be subject to the same provisions of law as to the registration of an automobile or motor vehicle as residents, and in case of registration after said three months, the amount paid by said nonresident for such three months registration shall be deducted from the amount of the fee required for annual registration.

§ 2. [*Time of Taking Effect*].—This act shall take effect from its passage.

An Act to amend Section 4075 of the Public Statutes, relating to the definition of the word "automobile" and the words "motor vehicles."

[Act approved Jan. 22, 1911; Laws 1910, No. 129.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*"Automobile" and "Motor Vehicle" Defined*].—Section 4075 of the Public Statutes is hereby amended so as to read as follows: Section 4075. The words "automobile" and "motor vehicle," as used in this chapter, shall include all vehicles propelled by power other than muscular power, except railroad and railway cars and motor vehicles running only upon rails or tracks, road rollers, traction engines, fire wagons, fire engines, police patrol wagons and ambulances.

§ 2. [*Operation of Traction Engines*].—No person or corporation shall operate a traction engine upon a public highway in any town in this state unless having obtained, and in conformity with the rules and regulations of, a written permit issued by the board of selectmen of such town. Said board of selectmen shall, upon application of a person or corporation owning or operating a traction engine, that desires to operate such traction engine upon a public highway of such town, set a time for hearing upon such application and at said hearing may make such regulations respecting the use of such traction engine upon such public highway as said board of selectmen may designate as in the judgment of said board of selectmen will best conduce to the proper and careful use of said highway, and said board may in its discretion issue to such person or corporation a permit authorizing such person or corporation to operate such traction engine upon such highway or highways in such town as said board may designate and containing the regulations subject to which such traction engine is to be

operated. Said permit shall expire on the first day of April following its issue. Said permit shall be signed by said board and the person or corporation to whom said permit is granted shall before operating such traction engine cause such permit to be recorded in the town clerk's office of such town. A person or corporation that violates the provisions of this section shall be fined not more than two hundred dollars for each offense.

§ 2. [*Time of Taking Effect*].—This act shall take effect from its passage.

An Act relating to the law of the road.

[Act approved Jan. 28, 1911; Laws 1910, No. 141.]

It is hereby enacted by the General Assembly of the State of Vermont:

§ 1. [*Rules of the Road*].—A person driving or riding a horse or other draft animal or operating an automobile or motor vehicle who meets on a public highway a person riding or driving a horse or other draft animal or a person operating an automobile or motor vehicle, shall, when it is safe and practicable so to do, seasonably turn such horse, other draft animal or vehicle to the right of the center of the traveled part of such highway so as to pass without interference. A person driving or riding a horse or other draft animal or operating an automobile or motor vehicle shall, on overtaking a horse, draft animal or vehicle, when it is safe and practicable so to do, pass on the left side thereof, and the person riding or driving a horse or draft animal or operating an automobile or motor vehicle overtaken by a person riding or driving a horse or other draft animal or operating an automobile or motor vehicle shall, when it is safe and practicable so to do, turn to the right so as to allow free passage on the left. A person riding or driving a horse or other draft animal, or operating an automobile or motor vehicle shall, at the intersection of public highways, when safe and practicable so to do, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the left of such intersection when turning to the left. The operator of an automobile or motor vehicle shall, upon approaching a crossing of intersecting highways, a bridge, sharp turn, curve, steep descent or brow of a hill have the automobile or motor vehicle under perfect control and give a timely signal with a bell, horn, or other device for signalling, and a person who violates this provision shall be fined not more than one hundred dollars. A person operating an automobile or motor vehicle on a bridge or public highway, where there is not an unobstructed view of the road for at least one hundred yards,

shall when it is safe and practicable so to do, keep his vehicle on the right of the center of the travelled part of the bridge or highway. A person who violates a provision of this section for which no penalty is herein otherwise provided shall be fined not more than ten dollars.

§ 2. [*Time of Taking Effect*].—This act shall take effect from its passage.

VIRGINIA.

ACT OF MARCH 17, 1910.

- § 1. Operation of Vehicles Conditioned upon Compliance Herewith.
 2. Owner's License—Application.
 - 3a. Certificate—Attachment to Vehicle—Production.
 - 3b. Manufacturers and Dealers—Fee—Certificate.
 - 3c. Chauffeur's License—Application—Badge—Display.
 - 3d. Duration of Licenses.
 4. Number Plates—Display.
 5. Fees for Licenses of Owners.
 6. Loss of License or Number Plates.
 7. Change of Ownership of Vehicle—Transferability of License or Plates.
 8. Speed—Local Regulations—Rates.
 9. Production of Certificate to Officer.
 10. Nonresidents—Compliance with Foreign Law—Periods of Use—Reciprocal Agreements with Other States.
 11. Speed—Rates.
 12. Approaching Horses—Signal to Stop—Assistance.
 13. Subdiv. 1. Overtaking Other Travelers—Signal—Speed.
 2. Device to Prevent Use of Vehicle—Leaving Unattended.
 3. Equipment—Brake—Signaling Device.
 4. Lights—Illumination of Number.
 - 13a. Approaching Curves—Keeping to Right.
 14. Penalties—Appeals.
 15. Liability for Damages—Deposit—Proceedings against Vehicle—Notice to Owner—Service on Driver.
 16. Judicial Sale of Vehicle.
 17. Vehicles Contemplated by Act—Civil Actions not Abridged.
 18. Vehicles Registered Prior to This Act.
 19. Disposition of Fees Collected Hereunder.
 - 19a. Garage Keepers—License—Tax.

- § 20. Garage Defined.
- 21. Local Taxes.
- 22. Penalties—Violation of Sections 19 or 20.
- 24. Act Repealed Hereby.

An Act to license and regulate the running of automobiles, locomobiles and other vehicles and conveyances whose motive power is other than animal power, along and over public highways of this state; to provide for the registration of the same, to provide uniform rules regulating the use and speed thereof, and to prescribe penalties for the violation of said rules and regulations, and for the licensing of chauffeurs, and to repeal an act entitled an act to regulate the running of automobiles, locomobiles and other vehicles and conveyances whose motive power is other than animals, along and over the public highways of this state; to provide for the registration of the same, to provide uniform rules regulating the use and speed thereof, and to prescribe for the violation of said rules, approved March 17, 1906.

[Act approved March 17, 1910; Acts 1910, c. 326.]

Be it enacted by the General Assembly of Virginia:

§ 1. [*Operation of Vehicles Conditioned upon Compliance Herewith*].—That it shall be unlawful for any person or persons, except in accordance with the provisions of this act, to run, drive or operate any automobile, locomobile, motorcycle, motor bicycle, or any vehicle of any kind the motive power of which shall be electricity, steam, gas, gasoline, or any other motive power except animal power, and which said vehicles shall hereafter be called machines in this act, on or along or across any public road, street, alley, highway, avenue or turnpike of any county, city, town or village in the State of Virginia, except and until such person shall comply with the provisions of this act.

§ 2. [*Owner's License—Application*].—Every owner of a machine on or before the first day of January in each year or before he shall commence to operate his machine, shall register and obtain a license to operate the same by making application to the secretary of the Commonwealth for a certificate of registration and license to operate. The application must contain the name of the applicant, his residence and post-office address and the county in which he resides, and if a corporation, its place of business, giving the name, factory number, if any, fixed by its maker, a brief description showing the style of machine, source of power, number of cylinders and horse-power.

§ 3a. [*Certificate—Attachment to Vehicle—Production*].—The sec-

retary of the Commonwealth shall issue a certificate of registration and license, giving the machine in question a number which shall distinguish it, which certificate of registration and license shall be firmly attached to the machine in an easily accessible place, and shall be shown to any sheriff, constable or other police officer when demanded to be seen by said officer. The certificate and license shall be in form as follows:

This is to certify that ———, whose residence is ———, and post-office address is ———, is the owner of a ——— machine, factory number ———, horse-power ———, color of body ———, color of gear ———, and is hereby licensed to operate his machine in the State of Virginia under the registration and license number ——— for the year ———.

Given under my hand this, the — day of ———, nineteen ———.

Secretary of the Commonwealth.

§ 3b. [*Manufacturers and Dealers—Fee—Certificate*].—Every manufacturer, agent or dealer in automobiles, locomobiles, motorcycles or motor bicycles, or other vehicles of the like kind, on or before the first day of January in each year, or before he commences to operate machines to be sold by him, shall make application to the secretary of the Commonwealth for a dealer's certificate of registration and license. The application shall state the make of machines handled by the manufacturer, agent or dealer, and the probable number that will be disposed of during that year, and on the payment of the fee of fifty dollars the secretary of the Commonwealth shall issue to such dealer a certificate of registration and license in form as follows:

This is to certify that ———, whose residence is ———, and place of business is ———, is a dealer in ——— make of machines, and is hereby licensed to operate machines to be sold by him in this state for the year ———, under the registration and license number ———.

Given under my hand this, the — day of ———, nineteen ———.

Secretary of the Commonwealth.

§ 3c. [*Chauffeur's License—Application—Badge—Display*].—Every person, other than the owner of a machine which has been registered and licensed to be operated in this state, who shall operate machines for pay, before he shall operate a machine in this state shall first take out a chauffeur's license to operate automobiles in this state, except that a member of a family of a licensed owner of a machine who is otherwise qualified may operate such machine without paying additional license. The applicant shall make application to the secretary of the Commonwealth, which application shall give the name of the

applicant, his residence, post-office address, age and experience in operating automobiles, and shall be sworn to before some officer authorized to administer oaths. There shall be appended to each application a statement, by two reputable citizens, that the applicant is a fit person and is competent to operate an automobile. On the payment of two dollars and fifty cents the secretary of the Commonwealth shall issue to such applicant a license and badge, which license and badge shall be carried by said chauffeur at all times while operating an automobile, the badge to be plainly in evidence upon the lapel of the chauffeur's coat or on the front part of the chauffeur's cap. The license to be in the form following:

This is to certify that _____, whose residence is _____, and post-office address is _____, has this day been duly licensed according to law to operate or drive automobiles over the roads of this state for the year _____.

Given under my hand this, the _____ day of _____, nineteen _____.

Secretary of the Commonwealth.

§ 3d. [*Duration of Licenses*].—The certificate of registration and license of owner of automobile, certificate of registration and license of owner of motorcycle or motor bicycle, dealer's certificate of registration and license and chauffeur's license shall terminate on the thirty-first day of December of the year for which issued.

§ 4. [*Number Plates—Display*].—A number plate must also be delivered to the applicant by the secretary of the commonwealth, upon which the number assigned must be painted in Arabic numerals not less than four inches in height, followed by the letters Va., and in figures the year for which issued, and this plate must always be in evidence upon the rear of the machine.

§ 5. [*Fees for Licenses of Owners*].—The fee for the certificate of registration and license and plate to be paid by the owner of an automobile or other vehicle the motive power of which is other than animal power, except motorcycles or motor bicycles, if twenty horsepower or less, shall be five dollars; and if over twenty and under forty-five horsepower, shall be ten dollars; and if forty-five horsepower or over, twenty dollars, the horse-power to be determined by the rating given by the manufacturer; and if more than one rating, the highest is to be taken for the purposes of this act. The fee for certificate of registration and license and plate for a motorcycle or motor bicycle shall be two dollars. These fees shall be paid to the secretary of the commonwealth, who shall issue certificate of registration and license and number plates as provided for in this act.

§ 6. [*Loss of License or Number Plates*].—If the owner of a machine shall furnish satisfactory proof of the loss of his certifi-

cate of registration and license, then the secretary of the commonwealth shall issue a duplicate in the payment of the fee of one dollar. Should the owner of a machine suffer the loss of his number plate, it shall be his duty to report the loss to the secretary of the commonwealth, who shall thereupon grant a permit to have another made and used on the machine, the new plate to be as nearly like the original plate issued to him as possible.

§ 7. [*Change of Ownership of Vehicle—Transferability of License or Plates*].—Should the owner part with the machine during the year for which the certificate of registration and license was issued, he shall immediately notify the secretary of the commonwealth of such sale, and return to him the certificate and license. Should the owner disposing of his machine aforesaid purchase another during that year, the secretary of the commonwealth shall transfer the old number to the new machine and issue a new certificate and license for the new machine on the payment of the fee of one dollar. It shall be unlawful for any person to attach or use a number plate or certificate and license on a machine for which it was not issued.

§ 8. [*Speed—Local Regulations—Rates*].—The operator of a machine shall not drive in the corporate limits of any city or town at a greater rate of speed than twelve (12) miles an hour, except in cases where the local ordinances of such city or town shall provide otherwise. Outside of the corporate limits of any city or town a speed of twenty miles an hour is permissible, except going around curves, down sharp declines, or at the intersection of any cross-roads, or over the crest of hills, or in passing other vehicles or riders on roadways, when a rate of speed not exceeding eight miles an hour must be observed.

§ 9. [*Production of Certificate to Officer*].—It shall be the duty of the owner or driver of any machine to produce his certificate for inspection when so requested by the sheriff or any constable, policeman or other peace officer.

§ 10. [*Nonresidents—Compliance with Foreign Law—Periods of Use—Reciprocal Agreements with Other States*].—Any owner or operator, not a resident of this state, who shall have complied with the laws of the state in which he resides, requiring the registration of motor vehicles, or licensing of operators thereof, and the display of identification or registration numbers on such vehicles and who shall cause the identification numbers of such state, in accordance with the laws thereof, and none other, together with the initial letter or letters of such state to be displayed on his motor vehicle, as in this subtitle provided, while used or operated upon the public highways of this state, may use such highways, not exceeding two periods of seven consecutive days in each calendar year, without complying with the pro-

visions of section two, three-a and three-b; provided, however, that if any nonresident be convicted of violating any provisions of sections eight, nine, eleven, twelve, thirteen, he shall thereafter be subject to and required to comply with all the provisions of said sections two, three-a and three-b, relating to the registration of motor vehicles and the licensing of operators thereof; and the governor of this state is hereby authorized and empowered to confer and advise with the proper officers and legislative bodies of other states of the Union and enter into reciprocal agreements under which the registration of motor vehicles owned by residents of this state will be recognized by such other states, and he is further authorized and empowered, from time to time, to grant to residents of other states the privilege of using the roads of this state, as in this section provided, in return for similar privileges granted residents of this state by such other states.

§ 11. [*Speed—Rates*].—The following rate of speed may be maintained, but shall not be exceeded on any of the highways set forth in section one, of any city, town or village or county in this state, by anyone driving a machine. (a) A speed of eight miles an hour around curves or bends, or where the roadway is not plainly visible for a distance of three hundred feet ahead, and at the intersection of prominent cross-roads, when such road or highway passes through the open country; and when the operator of an automobile overtakes a vehicle and indicates his desire to pass said vehicle, it shall be the duty of the driver of the vehicle to bear to the right and decrease his speed to less than eight miles per hour, so as to enable the automobile to pass at the left at a speed not exceeding eight miles per hour. (b) A speed of eight miles per hour where a street or highway passes the built-up portions of a city, town or village. (c) A speed of eight miles an hour at points on any public highway where there is a gathering of horses or persons. Otherwise the rate of speed may be twenty miles per hour, but this rate is subject to the conditions set forth in the succeeding sections of this act.

§ 12. [*Approaching Horses—Signal to Stop—Assistance*].—The owner, operator, conductor, driver or occupant of any such machine shall keep a careful look ahead for the approach of horseback riders, or vehicles drawn by horses, or other animals, and upon the approach of such riders or vehicles, shall slow up, keep his machine under thorough and careful control, give ample roadway to such rider or vehicle, and if signaled by such rider or occupant of such vehicle, or be otherwise requested thereto, shall immediately bring his machine and its engine to a full stop and allow ample room and time to allow such rider or vehicle to pass. And if requested so to do by said rider or occupant of said vehicle, the owner, operator, conductor, driver or occupant, if a male, of any such machine shall lead the horse or

horses past his machine. Should any horse ridden or driven in an opposite direction to that which the machine is traveling give evidence of fright, then the duty of the driver shall be the same as if he had been signaled to by the rider of the horse or the occupant of the vehicle.

§ 13. [Subdiv. 1. *Overtaking Other Travelers—Signal—Speed*].—When the operator, owner, occupant, conductor or driver of such machine overtakes a horse or vehicle traveling in the same direction with himself, he shall slow down his speed, signal for the road by bell or gong or horn, and if the horse or other vehicle stop, shall pass at a rate of speed not greater than eight miles per hour. Should such vehicle or ridden horse not stop, and the said operator, owner, driver, conductor or occupant of said machine desire to pass, he shall do so at a rate of speed not greater than may be necessary, and shall, in all cases, use due diligence and care not to frighten the horse or horses. In case of a machine passing a horse or vehicle going in the same direction the provision of section twelve of this act shall apply to the operator, owner, driver, occupant, or conductor of the machine, except that in such case the horse or horses shall be held until the horse or horses become quiet, and then the machine may proceed.

[Subdiv. 2. *Device to Prevent Use of Vehicle—Leaving Unattended*].—Every machine shall be provided with a lock, key or other device to prevent its being set in motion, and no person shall allow any such machine operated by him to stand or remain unattended in any street, avenue, road, alley, highway, park, parkway, or any other public place, without first locking or making fast the machine, as above provided.

[Subdiv. 3. *Equipment—Brake—Signaling Device*].—Every machine shall be provided with a good and sufficient brake or brakes, and shall also be provided with a suitable bell, horn or other signal device.

[Subdiv. 4. *Lights—Illumination of Number*].—Every machine operated in this state shall have displayed from one hour after sunset to one hour before sunrise at least one white light, throwing a bright light at least one hundred feet in the direction in which the machine is going, and also shall exhibit in the rear of the machine one red light, which shall effectually illuminate the number tag on the rear.

§ 13a. [*Approaching Curves—Keeping to Right*].—When the operator, owner, occupant, conductor or driver of any such machine approaches a curve, bend or any place where the roadway is not plainly visible for a distance of three hundred feet ahead, he shall at all times keep his machine on the right-hand side of the roadway sufficiently to allow ample room on the opposite side for the passage of other

vehicles or machines, irrespective of whether another vehicle or machine is approaching or not.

§ 14. [*Penalties—Appeals*].—Any person failing to perform any duty imposed by any section of this act, or violating any provision or condition herein set forth, shall, for each offense, be fined not less than ten dollars, or imprisoned in jail not less than five nor more than thirty days, or both, in the discretion of the justice of the peace before whom the case may be tried. An appeal may be taken to the circuit court of the county or corporation or hustings court of the city, in accordance with the general law governing appeals in misdemeanor cases.

§ 15. [*Liability for Damages—Deposit—Proceedings Against Vehicle—Notice to Owner—Service on Driver*].—In addition to such fine or imprisonment, any person violating any of the provisions of this act shall be liable for damages actually incurred by reason of such violation, and in default of the deposit with the justice by such owner or occupant of a sum in cash reasonably sufficient to pay such cost and probable damages, the machine may be seized and impounded anywhere in any county or city of the state upon the order of the justice of said county or city in which the offense is committed, and may, by order of the justice, be sold to pay such fine or damage. But before any judgment shall be entered in said proceedings the owner of such machine shall have notice of the same by publication or otherwise, according to law, and allowed an opportunity to make defense, and the driver of the machine shall be deemed an agent of the owner for the purpose of serving process.

§ 16. [*Judicial Sale of Vehicle*].—In case when any such machine shall be impounded, as provided in the preceding section, and judgment be against the owner, the sheriff, constable or sergeant, as the case may be, shall fix upon a time and place for the sale thereof, and post notices of the same for at least ten days before the date of the sale, at three or more public places in his county or corporation, and shall publish notice of sale in some newspaper published in the county or city for two consecutive weeks. At the time and place so appointed such officer shall sell to the highest bidder for cash the said machine; and the surplus, if any there be, after deducting the amount of fine, cost and damage, shall be paid to the owner of the machine.

§ 17. [*Vehicles Contemplated by Act—Civil Actions not Abridged*].—Nothing in this act shall apply to the machines known as traction engines, or to any locomotive engine or electric car running on rails. Machines owned by counties and cities and used for purely county and municipal purposes shall not be required to be registered. And nothing contained in this act shall affect the right of any person

injured in his person or property by the negligent operation of any machine, to sue and recover damages as heretofore.

§ 18. [*Vehicles Registered Prior to This Act*].—All owners of automobiles, locomobiles and other vehicles whose machines have been registered in the office of the secretary of the commonwealth under the act approved March seventeenth, nineteen hundred and six, since January first, nineteen hundred and ten, shall be required to register their machines when this law becomes effective, and shall pay the fee required by this act, less the fee already paid, and shall retain their present number plates until January first, nineteen hundred and eleven. All machines registered prior to January first, nineteen hundred and ten, shall, as soon as this law becomes effective, register their machines in the office of the secretary of the commonwealth for the year nineteen hundred and ten, and pay the fee required by this act for such registration.

§ 19. [*Disposition of Fees Collected Hereunder*].—All fees collected by the secretary of the commonwealth under the provisions of this act, after the payment of the necessary expenses incident to the cost of purchasing number plates and paying cost of mailing same, shall be paid into the state treasury, and shall constitute a special fund to be expended under the direction of the state highway commissioner in the permanent improvement of main highways of this state, to be expended according to the provisions of an act approved February twenty-fifth, nineteen hundred and eight, entitled an act to provide for state money aid in addition to convict labor for improvement of public roads.

§ 19a. [*Garage Keepers—License—Tax*].—That every person who shall keep a garage for the hire, storage or sale of automobiles in the country and in towns of less than two thousand (2,000) inhabitants, shall pay the sum of fifteen dollars (\$15.00), and an additional sum of fifty cents (\$.50) for the storage capacity in excess of five (5) of the vehicles hereinafter defined, and in towns of two thousand (2,000) inhabitants and over he shall pay twenty-five dollars (\$25.00) and an additional tax of fifty cents (\$.50) for the storage capacity over five (5) of each of the vehicles hereinafter mentioned, and in cities he shall pay a tax of one hundred dollars (\$100) and one dollar (\$1.00) additional for each vehicle for the storage capacity of each vehicle over five. The license to keep a garage by the proprietor of public watering places and other places of summer resort, or any person at such places for six months or less, shall be one-half of the sums hereinbefore specified.

§ 20. [*Garage Defined*].—A garage, as used within the terms of this act, shall mean a place of storage for hire or a place where there is kept for hire any automobile, locomobile or any vehicle of any kind

the motive power of which shall be electricity, steam, gas, gasoline or any other motive power except animals, whether such automobile, locomobile or vehicle is kept therein permanent or temporarily.

§ 21. [*Local Taxes*].—Any person, firm, association or corporation licensed under this act shall pay a license tax in the corporation or county in which such automobile, locomobile or other vehicle is, or in which such garage is located, but in no case shall any person pay a license tax in more than one city or county.

§ 22. [*Penalties—Violation of Sections 19 or 20*].—Any person violating sections nineteen and twenty of this act shall, upon conviction, pay a fine of not less than fifty dollars nor more than one hundred dollars for each offense.

§ 24. [*Act Repealed Hereby*].—An act entitled an act to regulate the running of automobiles, locomobiles and other vehicles and conveyances whose motive power is other than animals along and over the public highways of this state, to provide for the registration of the same, to provide uniform rules regulating the use and speed thereof, and to prescribe for the violation of said rules, approved March seventeenth, nineteen hundred and six, is hereby repealed.

WASHINGTON.

ACT OF MARCH 11, 1905.

- § 1. Operation of Vehicles Conditioned upon Compliance Herewith.
2. Registration of Vehicles—Application—Certificate.
3. Record of Registrations.
4. Fee.
5. Display of Number.
6. Nonresidents.
7. Light—Illumination of Number.
8. Muffler—Brakes—Signaling Device—Rules of Road.
9. Approaching Horses—Care—Stopping on Signal—Forward Movement.
10. Speed—Rates.
11. Speed—General Considerations—Racing.
12. Local Regulations.
13. Penalties.

ACT OF MARCH 22, 1909.

- § 279. Speed of Automobile.
376. Fraud by Bailee of Animal or Vehicle—Intention Not to Pay.

An Act regulating automobiles or motor vehicles on public roads, highways, park or parkways, streets or avenues, within the State of Washington.

[Act approved March 11, 1905; Laws 1905, c. 154.]

Be it enacted by the Legislature of the State of Washington:

§ 1. [*Operation of Vehicles Conditioned Upon Compliance Herewith*].—No automobile or motor vehicle shall be used or operated on any public highroad, highway, park or parkway, street or avenue within this state until the owners shall have complied with sections two, four and five of this act.

§ 2. [*Registration of vehicles—Application—Certificate*].—The owner of every automobile or motor vehicle shall file in the office of the secretary of state annually before June first a statement of his name and address, together with a brief description of every such vehicle owned by him and shall obtain from said secretary a numbered certificate for each of said vehicles, which certificate shall state the name of the owner of such vehicle and that he has registered in accordance with the provisions of this act. These certificates shall be numbered consecutively, beginning with one.

§ 3. [*Record of Registrations*].—The secretary of state shall keep a record of all such statements and of all certificates issued by him with their numbers.

§ 4. [*Fee*].—The fee for issuing said certificate shall be two dollars and the fee for each renewal thereof shall be two dollars.

§ 5. [*Display of Number*].—The number of each certificate, preceded by the letters "Wn." shall be displayed upon the back of such automobile or motor vehicle in light colored arabic numerals at least four inches high on a dark background.

§ 6. [*Nonresidents*].—The provisions of the previous sections shall not apply to automobiles, motor vehicles or motorcycles owned and operated by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners of automobiles, motor vehicles or motorcycles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as provided by section five of this act.

§ 7. [*Light—Illumination of Number*].—Every automobile or motor vehicle when driven on any public road, highway, park or parkway, street or avenue within this state shall, during the hours of darkness, have fixed upon some conspicuous part thereof, at least one lighted lamp, showing white to the front and red to the rear, and shall have

the license or certificate number of said vehicle painted in dark arabic numerals across the white glass in said lamp.

§ 8. [*Muffler—Brakes—Signaling Device—Rules of Road*].—Every automobile or motor vehicle using gasoline as motive power shall use the "muffler," so called, and the same shall not be cut out or disconnected within the limits of any city or village within this state. Every automobile or motor vehicle shall be provided with good and efficient brakes and with a bell or horn, which shall be rung or blown whenever there is danger of collision or accident. The driver or operator of every automobile or motor vehicle shall turn to the right in meeting vehicles, teams and persons moving or headed in an opposite direction, and turn to the right [left] in passing vehicles, teams and persons moving or headed in the same direction.

§ 9. [*Approaching Horses—Care—Stopping on Signal—Forward Movement*].—Every person having control or charge of any automobile or motor vehicle, whenever upon any public street or way, and approaching any vehicle drawn by a horse or horses, or any horse upon which any person is riding, shall operate, manage and control such automobile or motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses, and to insure the safety and protection of any person riding or driving the same. And if such horse or horses appear frightened, the person in control of such motor vehicle shall reduce its speed, and, if requested by signal or otherwise by the driver of such horse or horses, shall not proceed further towards such animal unless such movement be necessary to avoid accident or injury, or until such animal appears to be under the control of its rider or driver.

§ 10. [*Speed—Rates*].—No person, driver or operator in charge of any automobile or motor vehicle on any public road, highway, park or parkway, street or avenue within the state shall drive, operate, move, or permit the same to be driven, operated or moved at a rate of speed faster than one (1) mile in five (5) minutes within the thickly settled or business portion of any city or village within this state, nor outside of such thickly settled or business portion of any city or village on any public road, highway, park or parkway, street or avenue, at a rate of speed faster than one (1) mile in two and one-half ($2\frac{1}{2}$) minutes; nor over any crossing or crosswalk within the limits of any city or village, at a rate faster than one mile in fifteen (15) minutes when any person is upon the same.

§ 11. [*Speed—General Considerations—Racing*].—No person driving or in charge of any automobile, or motor vehicle on any highway, townway, public street, avenue, driveway, park or parkway, shall drive the same at any speed greater than is reasonable and proper, having regard to the traffic and use of the way by others, or so as to endanger

the life or limb of any person; and racing any such vehicle on any such way or parks is hereby forbidden.

§ 12. [*Local Regulations*].—Cities, towns and counties shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of any automobile or motor vehicle, any license or permit to use the public roads, highways, park or parkways, streets or avenues, or excluding or prohibiting any automobile or motor vehicle whose owner has complied with sections 2, 4 and 5 of this act from the free use of such public road, highway, park or parkway, street or avenue, and all such ordinances, rules and regulations now in force are hereby declared to be of no validity or effect: Provided, that nothing in this act shall be construed as limiting the power of local authorities to make, enforce and maintain ordinances, rules or regulations, in addition to the provisions of this act, affecting automobiles or motor vehicles which are offered to the public for hire.

§ 13. [*Penalties*].—The violation of any of the provisions of this act shall be deemed a misdemeanor, punishable by a fine not exceeding one hundred dollars.

An Act relating to crimes and punishments and the rights and custody of persons accused or convicted of crime, and repealing certain acts.

[Act approved March 22, 1909; Laws 1909, c. 249.]

Be it enacted by the Legislature of the State of Washington:

§ 279. [*Speed of Automobile*].—Every person who shall drive or operate, and every owner, lessee or other person in charge thereof who shall permit to be driven or operated, any automobile or motor vehicle on any public road, highway, park or parkway, street or avenue, within this state: 1. Within a thickly settled or business portion of any city or town, at a rate of speed faster than one mile in five minutes; or 2. Over any crossing, cross-walk or street intersection within the limits of any city or town, when any person is upon the same, at a rate of speed faster than one mile in fifteen minutes; or 3. At any other place, at a rate of speed faster than one mile in two and one-half minutes; or 4. Upon any public road, highway, park or parkway, street or avenue, at any unsafe or unreasonable rate of speed, having proper regard to the safety of any other person or persons using the same, shall be guilty of a misdemeanor.

§ 376. [*Fraud by Bailee of Animal or Vehicle—Intention Not to Pay*].—Every person who shall obtain from another the possession or use of any horse or other draft animal or any vehicle or automobile, without paying therefor, with intent to defraud the owner thereof, or

who shall obtain the possession or use thereof by color or aid of any false or fraudulent representation, pretense, token or writing, or shall obtain credit for such use by color or aid of any false or fraudulent representation, pretense, token or writing; or who having hired property, shall recklessly, wilfully, wantonly or by gross negligence injure or destroy or cause, suffer, allow or permit the same, or any part thereof, to be injured or destroyed; or who, having hired any horse or other draft animal upon an understanding or agreement that the same shall be ridden or driven a specified distance or to a specified place, shall wilfully and fraudulently ride or drive or cause, permit or allow the same to be ridden or driven a longer distance, or to a different place, shall be guilty of a misdemeanor.

WEST VIRGINIA.

ACT OF FEB. 24, 1905.

§ 61. State Taxes.

104. License to Maintain Automobile.

ACT OF FEB. 27, 1907.

§ 2. License to Operate Vehicle.

44. Issuance of License—Plates—Display of Number—Penalties.
etc.

An act to amend and re-enact chapter 32 of the code of West Virginia, relating to regulations respecting licenses, injury to persons arising from illegal sales of intoxicating liquors—remedy therefor, and amount of rate of tax on each subject of taxation.

[Passed Feb. 24, 1905; Acts 1905, c. 36. In effect from passage.]

Be it enacted by the Legislature of West Virginia:

§ 61. [State Taxes].—In every year for which a different rate is not prescribed by special enactment, the state taxes on the person and subjects hereinafter mentioned shall be as follows:

§ 104. [License to Maintain Automobile].—On every license to maintain an automobile, ten dollars.

An Act to amend and re-enact sections one, two, ten, twelve, eighteen, forty, forty-four, sixty-two, sixty-six, seventy-four, seventy-seven,

eighty-six, eighty-seven, eighty-eight, ninety-two, one hundred, one hundred and three, one hundred and seven, one hundred and nine, one hundred and thirteen, one hundred and fifteen, one hundred and seventeen, one hundred and twenty, and to add thereto sections eighty-eight-a, eighty-eight-b, one hundred and twenty-a and sections one hundred and forty, one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-four, one hundred and forty-five and one hundred and forty-six of chapter thirty-two of the code of West Virginia as last amended and re-enacted by chapter thirty-six of the acts of the legislature of one thousand nine hundred and five, relating to the regulations respecting licenses, injury to persons arising from illegal sales of intoxicating liquors, remedy therefor, the amount of rate of tax on each subject of taxation, and to provide for the payment of all license privileges and franchise taxes collected by the state to the credit of the state fund.

[In effect ninety days from passage. Act approved Feb. 27, 1907; Acts 1907, c. 82.]

Be it enacted by the Legislature of West Virginia:

§ 2. [*License to Operate Vehicle*].—No person without a state license therefor shall maintain or operate an automobile or vehicle of like nature.

§ 44. [*Issuance of License—Plates—Display of Number—Penalties, etc.*].—A license to maintain an automobile shall be granted by the auditor to the owner thereof, and shall be co-extensive with the state; such licenses shall be numbered consecutively and a record shall be kept showing the name of the person to whom each license is granted; in addition to the certificate of license the auditor shall furnish to such licensee two metal tags or plates, bearing the same number as the license and the word "licensed," which shall be printed on such tag or plate in plain letters; one such tag or plate shall be securely attached in a conspicuous place on the front and the other on the rear end of such automobile; any person other than the owner of the automobile licensed who shall deface or destroy such tag or plate shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five dollars nor more than twenty-five dollars; duplicates of any such tag or plate may be issued by the auditor to the person to whom the original was issued upon payment of the fee of one dollar for each; any person who shall maintain or operate an automobile without such tag or plate or with one bearing any other number than that of the license issued therefor, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than twenty nor more than one hundred dollars. In any controversy respect-

ing the identity or ownership or control of an automobile, the number borne by it shall be prima facie evidence that it was owned and operated by the person to whom the license therefor was issued; if a license for an automobile be issued to any person other than the owner, it shall be invalid and such automobile shall be deemed to be maintained and operated without a license; it shall be the duty of the assessor to report to the auditor during the month of July of each year on blanks prepared by the auditor, the names of the owners of all automobiles listed by him in his county for taxation.

WISCONSIN.

LAWS OF 1909.

§ 1636—47.

- Subdiv. 1. Registration of Vehicles.
 2. Applications for Registration.
 3. Contents of Application.
 4. Certificate of Registration.
 5. Registration Fees.
 6. Previous Registrations.
 7. Number Plates—Display.
 8. Plates on Motorcycles.
 9. Sale of Vehicle.
 10. Record of Registrations.
 11. Loss of Certificate or Plate.

1636—48.

- Subdiv. 1. Registration by Manufacturers and Dealers.
 2. All Vehicles Registered under Single Number.
 3. Transfer of Number—Penalty.
 4. Change in Address or Firm Name.
 5. Fee.
 6. Duplicate Numbers.

1636—50. Stopping on Signal—Stopping Motor—Leaving Vehicle Unattended.

1636—52m. Using Vehicle without Permission—Penalty.

1636—54. Penalties.

[Laws 1909, pp. 623-627.]

§ 1636—47, Subdiv. 1. [*Registration of Vehicles*].—No automobile, motorcycle, or other similar motor vehicle shall be operated, ridden or driven along or upon any of the public highways of the state, unless

the same shall have been registered in accordance with the provisions of this act.

Subdiv. 2. [*Applications for Registration*].—Application for such registration may be made by mail or otherwise to the secretary of state upon blanks prepared under his authority, for that purpose. Blank applications shall be . . . kept in the offices of the county clerks throughout the state.

Subdiv. 3. [*Contents of Application*].—The application shall contain a statement of the name, place of residence and address of the applicant, with a brief description of the automobile, motorcycle, or other similar motor vehicle including the name of such vehicle, the number, if any, affixed by the maker, the character of motor power and the amount of such motor power stated in figures of horse-power and with . . . each application shall be deposited a registration fee . . . as hereinafter provided.

Subdiv. 4. [*Certificate of Registration*].—The secretary of state or his duly authorized agent shall then register in a book to be kept for that purpose the automobile, motorcycle, or other similar motor vehicle described in said application, giving to such automobile, motorcycle, or other similar motor vehicle a distinguishing number, and shall thereupon issue to said applicant a certificate of registration . . . which shall contain the name, place of residence and address of the applicant, the registered number assigned, the date of registration and a brief description of the automobile, motorcycle, or other similar motor vehicle so registered. . . . Said certificate of registration shall always be in the possession of the operator or firmly attached in some accessible place in the automobile, motorcycle, or other similar motor vehicle described therein.

Subdiv. 5. [*Registration Fees*].—There shall be paid to the secretary of state for the registration of each automobile a fee of two dollars and for the registration of each motorcycle a fee of one dollar.

Subdiv. 6. [*Previous Registrations*].—All certificates of registration of motor vehicles heretofore issued shall continue in force for ninety days after this act shall go into effect, but every owner of a motor vehicle so registered shall reregister such motor vehicle in accordance with the provisions of this act before the expiration of said ninety days, and pay the sum of one dollar to the secretary of state for such reregistration.

Subdiv. 7. [*Number Plates—Display*].—The secretary of state shall . . . issue and deliver to . . . each owner of an automobile, an official number plate . . . of uniform size and design, containing in three inch arabic numerals, followed by the letter "W," the distinguishing number so assigned to said motor vehicle, which said number plate shall be placed in a conspicuous place on the rear of such

automobile or other similar motor vehicle and be so kept and displayed at all times where the same can be readily and distinctly seen.

Subdiv. 8. [*Plates on Motorcycles*].—The secretary of state shall also issue and deliver to each owner of a motorcycle, an official number plate of uniform size and design, which shall have displayed thereon the initial letter of the state and the number assigned to such motorcycle, such letter and figures to be at least one inch high, securely fastened thereto.

Subdiv. 9. [*Sale of Vehicle*].—Upon the sale of such automobile, motorcycle, or other similar motor vehicle said certificate of registration and number plate . . . shall be returned to the secretary of state and the new owner shall make application for a certificate of registration and number plate and pay the fee of two dollars, in the manner hereinbefore provided.

Subdiv. 10. [*Record of Registrations*].—. . . Record of all applications and . . . certificates issued . . . shall be kept by the secretary of state at his office and shall be open to the inspection of all persons during reasonable business hours.

Subdiv. 11. [*Loss of Certificate or Plate*].—Upon satisfactory proof of the loss or destruction of any certificate of registration or number plate, the secretary of state shall issue a duplicate thereof to the owner of such automobile, motorcycle, or other similar motor vehicle, upon the payment of a sum not exceeding one dollar to cover the cost of such duplicates.

§ 1636—48. Subdiv. 1. [*Registration by Manufacturers and Dealers*].—Every manufacturer of, or dealer in automobiles, motorcycles, or other similar motor vehicles, may, instead of registering each automobile, motorcycle, or other similar motor vehicle owned or controlled by him, make application upon a blank . . . furnished by . . . the secretary of state for a general distinguishing number, . . . and said secretary of state shall, . . . issue to the applicant one certificate of registration containing the name, place of business, . . . address of the applicant, and . . . general distinguishing number . . . and shall also issue and deliver to such applicant an official number plate in quadruplicate of such design as said secretary of state shall determine.

Subdiv. 2. [*All Vehicles Registered Under Single Number*].—All automobiles, motorcycles, or other motor vehicles owned or controlled by such manufacturer or dealer, except those for his own private use, shall, until sold or let for hire, be regarded as registered under such general distinguishing number . . .

Subdiv. 3. [*Transfer of Number—Penalty*].—Any manufacturer or dealer who shall knowingly permit the use of any such number upon any automobile, motorcycle, or vehicle owned or controlled by any

other person shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars.

Subdiv. 4. [*Change in Address or Firm Name*].—It shall be the duty of every manufacturer or dealer aforesaid to notify the secretary of state of any change in his address or firm name.

Subdiv. 5. [*Fee*].—The fee for such registration, . . . together with the four distinguishing numbers . . . shall be five dollars for each garage.

Subdiv. 6. [*Duplicate Numbers*].—Additional duplicate general distinguishing numbers . . . may be obtained by any such manufacturer or dealer upon application to the secretary of state and the payment of an additional fee for each additional duplicate of not exceeding one dollar to cover the cost thereof. . . .

§ 1636—50. [*Stopping on Signal—Stopping Motor—Leaving Vehicle Unattended*].—Every person operating an automobile or other similar motor vehicle upon or along any . . . public . . . highway shall upon a signal by putting up the hand or other sign of distress, made by a person riding or driving a horse or horses, which . . . are frightened, cause such automobile or other similar motor vehicle to stop . . . , unless a movement forward . . . is necessary to avoid accident or injury, and upon request shall stop all motor power until such horse or horses . . . are under control; and shall if requested, assist such person or persons to pass such automobile or other similar motor vehicle in safety. . . . All motor power shall be stopped on any automobile or other similar motor vehicle while left unattended on the public highway.

§ 1636—52m. [*Using Vehicle Without Permission—Penalty*].—Any person who shall operate any automobile, motorcycle, or other similar motor vehicle upon any public highway of this state without the consent of the owner of such motor vehicle, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine, not exceeding fifty dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment in the discretion of the court.

§ 1636—54. [*Penalties*].—Any person . . . or persons who shall violate the provisions of sections 1636—47, 1636—49, 1636—52 of this act, except as provided in section 1636—53, shall be punished by a fine of not less than ten dollars and not more than twenty-five dollars; any person or persons who shall violate the provisions of section 1636—50 hereof shall be punished by a fine of not less than ten dollars nor more than fifty dollars. And any person convicted of a second or subsequent violation of the provisions of section 1636—50 of said act, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment in the county jail not exceeding sixty days or by both fine and imprisonment in the discretion of the court.

BILLS INTRODUCED IN CONGRESS.

MR. WANGER'S BILL.

- § 1. Definitions—"Automobile"—"State."
- 2. Application of Act—State Laws.
- 3. Registration of Vehicles—Application—Fee.
- 4. Number—Certificate—Shields.
- 5. Sale or Hiring of Vehicle.
- 6. Display of Number.
- 7. Lights—Illumination of Number.
- 8. Competency of Driver—Accident—Disclosing Identity.
- 9. Driver's License—Fee—Application.
- 10. Qualifications of Applicants—License—Badge.
- 11. Loss of Certificate, Shield License or Badge.
- 12. Production of Certificate and License to Officer.
- 13. Suspension or Revocation of License—Misuse of License, Badge, Number or Shield—Recklessness—Intoxication—Use of Vehicle without Permission.
- 14. Violation of Act—Surrender of License.
- 15. Display of Fictitious Number—Penalties.
- 16. Termination of Registration—Return of Certificate and Shields.
- 17. Penalties—False Statements—Running Away—Misuse of License or Badge.
- 18. Legal Proceedings Hereunder—Jurisdiction.
- 19. Subdiv. 1. Carrying Act into Effect.
 - 2. Records of Registrations and Licenses.
 - 3. Publication of Lists of Registrations and Licenses—Distribution.
- 20. Receipts and Expenditures Under Act.
- 21. Title of Act—Time of Taking Effect.

MR. COCKS'S BILL.

- § 1. Definitions—"Motor Vehicle"—"State."
- 2. Application of Act—State Laws.
- 3. Registration—Fee—Form of Application.
- 4. Number—Certificate of Registration—Contents.
- 5. Display of Number—Form of Plate or Tag—Lights.
- 6. Violation of Act—Forfeiture of License—Re-registration.

7. Registration by Dealers and Manufacturers.
9. Display of Fictitious Number—Penalty.
8. Registration—Letting of Vehicle.
10. Exhibition of Certificate—Loss of Certificate.
11. Motor Vehicle Bureau—Personnel—Duties.
12. Designation of Act—Time of Taking Effect.

In the House of Representatives, 61st Congress, 3d session, Feb. 7, 1911. Mr. Wanger introduced the following bill (H. R. 32570) which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.

Feb. 28, 1911. Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

A Bill providing for the regulation, identification, and registration of automobiles engaged in interstate commerce, and the licensing of the operators thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

[§ 1. *Definitions—"Automobile"—State*].—That the term "automobile" as used in this act shall include all motor vehicles except motorcycles, and the term "state" shall include the territories and districts of the United States.

§ 2. [*Application of Act—State Laws*].—That the provisions of this act shall apply to any automobile while engaged in commerce with foreign nations or among the several states, and operated and driven from one state to any other state of the United States, or from any state in the United States to a foreign country, or from a foreign country to any state in the United States: Provided, that the provisions of this act shall not apply to any automobile when operated and driven wholly within the state which is the residence of the owner: Provided further, that nothing in this act shall be so construed as to exempt any automobile, or the owner or operator thereof, from the provisions of the laws of any state in regard to the regulation of automobiles, except that, upon compliance with the provisions of this act by the owner and the operator of an automobile, such automobile, the owner and operator thereof, while engaged in such commerce, shall be exempt from the provisions of state laws in reference to the registration of automobiles and of licenses to operate the same, except the laws of the states in which such owner and operator, respectively, reside, with which last mentioned laws they shall in all respects comply. Such automobile and the owner and operator thereof, while so engaged in any other state, shall enjoy all the rights and privileges and

be subject to all the requirements of the laws of the last mentioned state with respect to automobiles registered thereunder and the operation thereof, except as to the display of the distinctive state number and the state authorization to operate therein.

§ 3. [*Registration of Vehicles—Application—Fee*].—That every person who desires to register an automobile under this act shall, in the office of public roads of the department of agriculture, pay a registration fee of ten dollars and file a verified application containing—

First. A brief description of the vehicle to be registered, including the name of the manufacturer, the manufacturer's number of the automobile, if any there be, the character of the motor power, and the amount of such power stated in figures of horse-power.

Second. The name, address, and residence of the owner of such automobile, with a statement that such owner has complied with the provisions, if any there be, of the law of the state of his residence in regard to the registration and identification of the said automobile.

Third. The registration number assigned to such automobile under such state law.

Fourth. Such other facts as may be required by the secretary of agriculture.

Such registration shall expire on December thirty-first, of the year for which made, but on application on or before that day may be renewed for the ensuing year upon the payment of a fee of five dollars.

§ 4. [*Number—Certificate—Shields*].—That if such application be approved by the director, the office of public roads shall assign to the automobile described in such application a distinctive number, and, except as herein otherwise provided, issue to the owner of a certificate of registration, which certificate shall state the name, address, and residence of the owner, the distinctive number assigned to such automobile, and the registration number, if any, assigned to it pursuant to the state law, and shall briefly describe such automobile; and such office shall also issue to the owner a pair of the number shields hereinafter provided for: Provided, that if any person shall have violated any provision of this act, the director of said office may, in his discretion, for not more than five years from the date of such violation, refuse to register any automobile owned by such person.

§ 5. [*Sale or Hiring of Vehicle*].—That in the event of the sale or the letting for hire for a period of over ten days of any automobile registered hereunder such registration shall thereupon become null and void.

§ 6. [*Display of Number*].—That every automobile registered under this act shall have the distinctive number assigned to it by the office of public roads, displayed on the front and on the rear of such automobile as an identification mark, and none other, when such automo-

bile is operated in any state other than the state of the residence of the owner thereof. That such distinctive number shall be displayed on a metal placard, in the form of a shield, in arabic numerals four inches long and no main stroke less than five-eighths of an inch wide. Above such number shall be the letters "U. S.," each letter at least two inches in height, and below such number shall be the usual abbreviation of the name of the state in which the owner resides, and beneath the abbreviation the numerals indicating the year for which the number shield is issued. Such letters and numerals shall at all times be kept clear and distinct. Such number shields shall be of a different color each year from the year next preceding.

§ 7. [*Lights—Illumination of Number*].—That every automobile registered under this act, when operated hereunder, shall at all times between one hour after sunset and one hour before sunrise carry at least two lighted lamps, one on the front and one on the rear thereof. The light of the front lamp shall be visible at a distance of at least two hundred feet in the direction in which the automobile is proceeding. The light of the rear lamp shall be visible at a distance of at least two hundred feet in the reverse direction, and illuminate every figure of the said distinctive number borne upon that part of the automobile, so that such number shall be clearly visible at a distance of sixty feet; and the last mentioned lamp shall also show a red light to the rear.

§ 8. [*Competency of Driver—Accident—Disclosing Identity*].—That every automobile registered under this act shall at all times be operated hereunder with safety to the public by a competent, discreet, and sober person; and if injury be caused to any person or property the operator shall stop and make himself and his residence and the name and residence of the owner of the automobile known to the person injured or the owner of the property injured and, on request, to any other person present.

§ 9. [*Driver's License—Fee—Application*].—That every person desiring a license to operate an automobile under the provisions of this act shall, in the office of public roads, pay a fee of five dollars, and file a verified application, containing—

First. A brief description of the applicant, and his name, age, address, and residence.

Second. A statement that the applicant has complied with the provisions, if any there be, of the law of the state of his residence in reference to the operation of automobiles in such state, and is duly authorized to operate an automobile therein.

Third. A statement of the experience the applicant has had in the operation of automobiles and whether he has ever been convicted of

a violation of any law relating to the operation of automobiles, and if so, the nature of such violation or violations.

Fourth. The number of the license or licenses, if any, for the operation of automobiles issued to such applicant for the current year, and the authority under which issued.

Fifth. Such other facts as may be required by the secretary of agriculture.

Unmounted photographs of the applicant taken within thirty days shall accompany such application, and be in such number and form as may be required by the secretary of agriculture.

§ 10. [*Qualifications of Applicants—License—Badge*].—That the director of the office of public roads having ascertained by such examination as the secretary of agriculture may prescribe, or by evidence of what the said secretary shall determine to be a sufficient examination under state law, that an applicant is not less than twenty-one years of age, and is a capable, discreet, and sober person and observant of the laws regulating the use of highways by vehicles, shall assign a distinguishing number to such applicant and, except as otherwise herein provided, issue to him a license in such form as may be prescribed by the secretary of agriculture. Said license shall contain the photograph and a brief description of the licensee and shall state the name, age, address, and residence of the licensee, and the distinctive number assigned to him printed in the same color as may be prescribed for the number shields for that year, with such other matter as may be prescribed by the secretary of agriculture. Such license shall expire on the thirty-first day of December of the year for which issued. The office of public roads may furnish to such licensee a suitable metal badge, with the distinctive number of the license thereon.

§ 11. [*Loss of Certificate, Shield, License or Badge*].—That in the event of the loss, mutilation, or destruction of any certificate of registration, number shield, license, or badge issued under this act, the owner or operator, as the case may be, may obtain from the director of the office of public roads a duplicate thereof upon filing in said office a verified application showing such fact and paying a fee of one dollar.

§ 12. [*Production of Certificate and License to Officer*].—That upon the demand of any officer of the United States, or of any state or subdivision thereof, in which an automobile registered hereunder is being operated, the owner or operator shall exhibit the certificate of registration of such automobile and the license to operate the same issued hereunder.

§ 13. [*Suspension or Revocation of License—Misuse of License, Badge, Number or Shield—Recklessness—Intoxication—Use of Vehicle Without Permission*].—That any person licensed under this act who shall permit any other person to possess or use his license or badge, or

who shall be convicted in any court or judicial tribunal of the United States, or of any state, of operating an automobile recklessly or while under the influence of liquor, or of taking or using an automobile without permission from the person owning or controlling the same, or of using any false name, number, or shield with intent to deceive, or of causing the death of any person, or if the license issued to him in the state of his residence shall there be revoked or suspended, the license issued to him and all moneys paid by him under this act shall thereby be forfeited.

§ 14. [*Violation of Act—Surrender of License*].—That in the event of the violation of any provision of this act by any person licensed to operate an automobile hereunder, such person shall forfeit his license and all rights and moneys paid hereunder and shall forthwith return his license to the Director of the Office of Public Roads for cancellation; and shall also forthwith return the badge, if any, issued with such license; and no further license shall be issued to such person except upon the payment of ten dollars and not until a year from the date of such return nor until said director shall be satisfied that such further license can be issued with due regard to the safety of the public and that all requirements for the issue of an original license hereunder have been complied with.

§ 15. [*Display of Fictitious Number—Penalties*].—That if there shall be displayed upon any automobile any placard or number shield bearing the letters "U. S.," when no such placard or shield was furnished for such automobile for said year by the Office of Public Roads, the owner and operator of such automobile shall forfeit all rights, privileges, and moneys paid under this act, if any, and such owner shall not be permitted to register any automobile under this act for five years thereafter; and not at any time thereafter except upon the payment of the sum of one hundred dollars in addition to the registration fees: *Provided, however,* That if the Director of the Office of Public Roads shall, upon hearing had, determine that such placard or shield was displayed without the fault or negligence of the owner of such automobile, the penalties specified in this section shall not be enforced against him. That upon the violation of any other provision of this act than the foregoing provision of this section by an owner of an automobile registered hereunder, such owner shall forfeit all rights, privileges, and moneys paid under this act, and may not thereafter register an automobile under this act except upon the filing of a new, verified application for each automobile owned or controlled by him and the payment anew of the registration fees hereinbefore provided, and the further payment of the sum of twenty-five dollars.

§ 16. [*Termination of Registration—Return of Certificate and*

Shields].—That whenever the registration of any automobile under this act shall be forfeited or for any cause become null and void before the expiration of the year for which such registration has been made the owner of such automobile shall forthwith upon such forfeiture or voidance return to the Office of Public Roads the certificate of registration for cancellation, with a statement of the facts and shall also immediately return the number shields issued incident to such registration.

§ 17. [*Penalties—False Statements—Running Away—Missuse of License or Badge*].—That every person who shall knowingly make any false statement under oath in or with respect to any application or other matter herein provided for, or who, being licensed as an operator hereunder, shall, after causing injury to any person or property while operating an automobile, go away without making himself and his name and address and the name and address of the owner of such automobile known, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by imprisonment not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. Every person who shall in any other respect violate any provision of this act or who shall possess or use any license or badge issued to any other person shall, upon conviction, in addition to any other penalties or payments herein provided, be punished by a fine not exceeding one hundred dollars, and if such violation be continuing in its nature it shall constitute a distinct offense for every day it continues.

§ 18. [*Legal Proceedings Hereunder—Jurisdiction*].—That all causes of action arising under this act may be sued, and all offenders against the same may be prosecuted, before the justices of the peace, magistrates, or other judicial courts of the several states having competent jurisdiction by the laws thereof of the trial of claims and demands of as great value, and of prosecutions where the punishments are of as great extent; and such justices, magistrates, or judiciary shall take cognizance thereof and proceed to judgment and execution as in other cases.

§ 19. [*Subdiv. 1.—Carrying Act into Effect*].—That the Secretary of Agriculture may establish reasonable rules and regulations for carrying into effect the provisions of this act, and may appoint such additional clerks and agents as may be necessary and be authorized by Congress.

[*Subdiv. 2.—Records of Registrations and Licenses*].—He shall cause to be kept in the Office of Public Roads a properly indexed record showing every application for registration of, and for licenses to operate, automobiles under this act, and of the action thereon or relating thereto, as well as of any proceeding in any court or by any

state officer with respect to any conduct by such applicant relating to an automobile or the registration or operation thereof; which record shall be open to public inspection during reasonable business hours. Upon the application of the official of any state having in charge the regulation of automobiles he shall, and upon the application of any other person he may, in his discretion, furnish information of any such action free of charge.

[Subdiv. 3.—*Publication of Lists of Registration and Licenses—Distribution*].—He shall further, at reasonable intervals, publish a bulletin which shall contain a list of all registrations made and licenses issued and revocations of any thereof under this act, with such description of the automobiles and operators and other information as he may deem necessary for identification or in aid of the protection of the public or for the detection of any violation of this act. Copies of such bulletins shall, on application therefor, be sent free to any state official having in charge the regulation of automobiles, and the bulletins for the then current year shall be sent to any other person who pays two dollars therefor.

§ 20. [*Receipts and Expenditures under Act*].—That the revenues under this act shall be paid into the Treasury of the United States. The Secretary of Agriculture shall make annual reports to Congress of the receipts and expenses received or incurred in carrying into effect the provisions of this act.

§ 21. [*Title of Act—Time of Taking Effect*].—That this act shall be known as the "Federal Automobile Act," and shall take effect thirty days after its approval.

In the House of Representatives, 61st Congress, 1st Session, March 26, 1909. Mr. Cocks introduced the following bill (H. R. 5176), which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.

A Bill providing for the regulation, identification, and registration of motor vehicles engaged in interstate travel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

[Sec. 1.—*Definitions—"Motor Vehicle"—"State"*].—That the term "motor vehicle" as used in this act, except when otherwise expressly provided, shall include all vehicles propelled by any power other than muscular power, except motor bicycles, motor cycles, road rollers, fire engines, police-patrol wagons, ambulances, and such vehicles as run only upon rails or tracks. The term "State," as used in this

act, except where otherwise expressly provided, shall include the territories and the federal districts of the United States.

§ 2. [*Application of Act—State Laws*].—That the provisions of this act shall apply to any motor vehicle operated and driven from one state to any other state of the United States, or from any state in the United States to an adjacent foreign country, and operated and driven from such place to any other place in the United States: *Provided*, That the provisions of this act shall not apply to motor vehicles when operated and driven wholly within the State which is the residence of the owner of such vehicle and not engaged in interstate travel as aforesaid: *Provided further*, That nothing in this act shall be so construed as to conflict with the laws of any state in regard to the regulation of motor vehicles, except that, upon compliance with the provisions of this act by an owner of a motor vehicle, such motor vehicle shall be exempt from the provisions of state laws in reference to the registration of motor vehicles, but such motor vehicles shall not be exempt from any of the provisions of the law of the state which is the residence of the owner of such motor vehicle.

§ 3. [*Registration—Fee—Form of Application*].—That every person hereafter acquiring a motor vehicle which may be engaged at any time in interstate travel, as aforesaid, and every person who has acquired or is the owner of a motor vehicle at the time of the passage of this act, and who desires to take advantage of the provisions hereof, shall cause to be filed either by mail or otherwise, in the office of the commission constituted and appointed under the provisions of this act, upon the payment of the registration fee of five dollars, a verified application containing—

First. A brief description of the vehicle to be registered, including the name of the manufacturer, the manufacturer's number of the motor vehicle, if number there be, the character of the motor power, and the amount of such motor power stated in figures of horsepower.

Second. The name and address of the owner of such motor vehicle and the state in which he resides, with a statement that such owner has complied with the provisions of the law of the state of his residence, if any, made and provided by the legislature thereof in regard to—

(a) The said owner's right to operate and drive the said motor vehicle within the boundaries of that state.

(b) The registration and identification of the said motor vehicle.

Third. The registration number assigned to such motor vehicle by the officers of the state in compliance with the state law.

§ 4. [*Number—Certificate of Registration—Contents*].—That upon the filing and approval of the bureau, as hereinafter constituted, of an application, as hereinbefore provided, the bureau, or its duly au-

thorized agent, shall assign to such motor vehicle, as described in such application, a distinctive number, and shall issue to the owner of such motor vehicle, under the seal of such bureau, a certificate of registration of such motor vehicle, as it is described in the application as filed, which certificate shall contain the distinctive number, as assigned to such motor vehicle, the name of the state of his residence, a brief description of such motor vehicle, stating the name of the manufacturer, the manufacturer's number, if there be one, the character of the motor power, and the amount of such power stated in figures of horsepower, and the distinctive registration number assigned to such vehicle, pursuant to the law of the state in which such motor vehicle had previously been registered, if any.

§ 5. [*Display of Number—Form of Plate or Tag—Lights*].—That every motor vehicle registered in accordance with the provisions of this act shall have the distinctive number assigned to it by the commission, as hereinafter constituted, displayed on the front and on the rear of such motor vehicle as an identification mark, and it is further provided—

First. That such distinctive number shall be exhibited separately and apart from any such number displayed in accordance with the provisions of the law of the state under which such motor vehicle shall have previously been registered.

Second. That such distinctive number, as an identification mark, shall consist of a white placard as a background upon the face of which shall appear the distinctive number assigned to such vehicle by the commission, as hereinafter constituted, in black Arabic numerals, such numerals to be not less than three inches long, nor each stroke less than one-half inch in width, such number to be preceded on the placard by the initial or abbreviation of the state under the laws of which such motor vehicle has previously been registered, in black letters, each letter to be at least one inch and a half in height, and such number to be followed on the placard by the letters "U. S.," each letter to be of the same size and character as the letters of the initial or abbreviation of the state as hereinbefore provided.

Third. Every motor vehicle registered under the provisions of this act shall at all times between sunset and sunrise carry and bear at least two lighted lamps, one on the front of such motor vehicle and one on the rear of such motor vehicle, the rays of which rear lamp shall shine upon and illuminate each and every part of the said distinctive number borne upon that part of the motor vehicle, and the light of which lamps shall be visible at a distance of at least two hundred feet in the direction in which the vehicle is proceeding and an equal distance in the reverse direction, respectively.

§ 6. [*Violation of Act—Forfeiture of License—Reregistration*].—

That in the event of a violation of any of the provisions of this act by an owner or operator of a motor vehicle registered as hereinbefore provided the following consequences shall ensue, that is to say—

First. Such owner shall be deemed to have forfeited all registration fees paid by him in accordance with the provisions of this act and to have forfeited all rights and privileges granted hereunder, and such registration as may have been had theretofore under the provisions of this act of any motor vehicle owned or controlled by such owner shall become null and void and of no effect immediately upon such breach or default by such owner.

Second. No such owner may, at any time thereafter, register any motor vehicle owned and controlled by him, or which he may afterwards acquire, in the office of the commission under the provisions of this act; and the commission is expressly prohibited from accepting and filing the application of such owner for registration under the provisions of this act of any motor vehicle owned or controlled by him except upon the performance of the following conditions, to wit:

(a) The payment by said owner of a penalty fee of twenty-five dollars.

(b) The filing of a new verified application for each motor vehicle owned or controlled by such owner, as hereinbefore provided.

(c) The payment by such owner anew of such registration fees as are provided for herein.

§ 7. [*Registration by Dealers and Manufacturers*].—That in the case of a manufacturer or dealer in motor vehicles, such manufacturer or dealer shall make application for the registration, in the same manner as is hereinbefore provided, of each style or type of motor vehicle manufactured or dealt in by such manufacturer or dealer. Whereupon, upon the payment of a registration fee of ten dollars, there shall be assigned to such style or type of motor vehicle a distinctive number as an identification mark, which shall be carried and displayed by every motor vehicle of such style or type registered in the manner hereinbefore provided, and there shall be issued to such manufacturer or dealer a certificate of registration, as hereinbefore provided, for each such style or type of motor vehicle and as many certified copies thereof as may be desired upon the payment of a fee of fifty cents for each such copy.

§ 8. [*Registration—Letting of Vehicle*].—That in the event of the sale or the letting for hire for a period of over ten days of any motor vehicle registered in the office of the commission, as hereinafter constituted, in accordance with the provisions of this act, such registration shall become null and void within five days after such event, and the vendor or lessor of such motor vehicle shall immediately upon such event return the certificate issued to him upon the registration

of such motor vehicle, for cancellation, with a verified statement that such motor vehicle has been sold or let for hire for a period of over ten days. In case the purchaser or lessee of such motor vehicle should desire to bring such motor vehicle again within the provisions of this act, he shall thereupon, in conformity with the provisions hereof, register such motor vehicle anew and procure a certificate upon the payment of the fees and the filing of a verified application, as hereinbefore provided, which shall state, among other things, the name of such vendor or lessor.

§ 9. [*Display of Fictitious Number—Penalty*].—That if any motor vehicle shall display an identification mark or number which purports to have been assigned to such vehicle, pursuant to the provisions of this act, but which is fictitious or which such motor vehicle has no right to display, the following consequences, in addition to those provided for in section five hereof, shall ensue, that is to say—

First. Every motor vehicle owned or controlled or afterwards acquired by the owner of such offending motor vehicle shall be denied registration within the provisions of this act for a period of five years.

Second. Such motor vehicle and all other motor vehicles owned and controlled by the owner of such offending motor vehicle, if previously registered as hereinbefore provided, shall, nevertheless, immediately become amenable to all the provisions of the law of the state in which such offense is committed, and the registration of such motor vehicle in accordance with the provisions of this act shall immediately become null and void.

§ 10. [*Exhibition of Certificate—Loss of Certificate*].—That every person who shall own or operate a motor vehicle registered under the provisions of this act shall be ready at all times, while such motor vehicle is engaged in interstate travel, to exhibit the certificate issued to him upon the demand of the proper authorities, either of the state or United States Government: *Provided, however,* That in the event that such certificate has been lost or mislaid, such owner or operator shall sign an affidavit setting forth the name and address of the affiant, the fact of such loss or mislaying of the certificate, the contents of such certificate, and the fact that such motor vehicle has been registered in the office of the commission as hereinafter constituted, in accordance with the provisions of this act, and deliver such affidavit to the authority making the demand; and upon the making and delivery of such affidavit to such authority the owner or operator shall be relieved of penalty for the mischance: *Provided further,* That upon the discovery of the loss of such certificate the owner of such motor vehicle shall immediately notify the office of the commission of such

fact. Whereupon such commission shall issue to such owner a duplicate of such lost certificate upon the payment of a fee of one dollar.

§ 11. [*Motor Vehicle Bureau—Personnel—Duties*].—That a bureau is hereby created and established in and to be a part of the Department of Commerce and Labor to be known as "Motor vehicle bureau," which shall be composed of a commissioner who shall be appointed by the President, by and with the consent of the Senate, together with an assistant and a clerical force as hereinafter provided.

First. The commissioner shall serve for a term of five years and until his successor shall have been appointed and qualified, but the commissioner may be removed by the President for inefficiency, neglect of duty, of malfeasance in office.

Second. Such commissioner shall appoint a secretary, who shall serve at his pleasure and whose duty it shall be to keep full and faithful record of the proceedings of such bureau, preserve at its general office all documents and papers entrusted to his care, prepare for service such papers and notices as may be required of him by the commissioner, and perform such other duties as the commissioner may prescribe.

Third. Such commissioner may also appoint and at his pleasure remove such additional clerical officers as may be necessary for the transaction of the bureau's business.

Fourth. The office of the bureau shall be in the city of Washington, District of Columbia, in rooms in an official building, which shall be designated by the proper authorities.

Fifth. Such commissioner shall be empowered to adopt such rules and regulations as shall be necessary to carry into effect the provisions of this act. Such commissioner shall have power to issue certificates and suspend and nullify the same as herein provided.

Sixth. Upon the receipt of an application for registration of a motor vehicle or motor vehicles, as hereinbefore provided, the commissioner shall thereupon file such application in his office and register such motor vehicle with the name and address of the owner thereof, and the facts as stated in the application, in a book or index to be kept for such purposes, under the distinctive number or identification mark assigned to such motor vehicle, by such commissioner, according to the provisions of this act, satisfy himself that the verified statement made in such application is correct, and issue to the applicant a certificate as hereinbefore provided. The book or index in which motor vehicles are registered, as hereinbefore provided, shall be kept by the commissioner at his main office and shall be open to the inspection of any person during reasonable business hours. Upon the application of any person, by mail or otherwise, any information within the knowledge of the commissioner in reference to any motor vehicle

registered in accordance with the provisions of this act shall be furnished to a reasonable extent by the commissioner to such person applying, free of charge.

Seventh. Any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by the owner of any motor vehicle, subject to the provisions of this act, in contravention of the provisions thereof, may apply to the commissioner by verified petition which shall briefly state the facts. Whereupon, a statement of the charges thus made shall be forwarded by the commissioner to the owner of such motor vehicle, who shall be called upon to answer the same, by a verified statement in writing, within a reasonable time, to be specified by the commissioner. If the owner of such motor vehicle shall not answer the complaint, as hereinbefore provided, within the time specified, or there shall appear to be any reasonable ground for investigating the said complaint it shall be the duty of the commissioner to investigate the matters complained of in such manner and by such means as he shall deem proper. If, upon such investigation, the commissioner shall find the violation complained of was committed, such commissioner may suspend or nullify the registration of all motor vehicles owned and controlled by the owner of the motor vehicle complained of, and impose such terms or conditions upon any new registration by such owner as he shall deem proper, in addition to those already provided for.

Eighth. The revenue derived from this act shall be appropriated to the payment of the expenses of the bureau, and such surplus as there may be shall be paid into the Treasury of the United States of America. The expenses of such bureau shall consist of the salaries of the commissioner, the secretary, and the clerical force, and such expenses as shall be necessary to carry into full force and effect the provisions of this act. The commissioner shall have a salary of five thousand dollars a year, payable quarterly. The secretary of the commission shall have a salary of two thousand dollars a year, payable in such manner as the commissioner may prescribe. The salary of any single member of the clerical force shall not exceed the sum of one thousand two hundred dollars a year. The commissioner shall submit to the Secretary of the Treasury semiannually a full report of the revenues and receipts and the expenses of such bureau.

§ 12. [*Designation of Act—Time of Taking Effect*].—That this act shall be known as the "Motor Vehicle Act," and shall take effect thirty days after its approval by the President.

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ALBERTA.

ACT OF MAY 9, 1906, AS AMENDED BY ACT OF MARCH 15,
1907.

- § 1. Definition of "Motor Vehicles"—of "Owner."
- 2. Registration—Nonresidents—Dealers and Manufacturers.
- 3. Issuance of Permits—Renewals and Transfers.
- 4. Display of Number and Permit.
- 5. Signaling Device—Lights.
- 6. Speed—Speedways.
- 7. Driving in Race or on Wager.
- 8. Approaching Horses—Care—Speed—Stopping.
 Passing Horses in Cities or Towns.
- 9. Speed at Intersecting Highway or Bridge.
- 10. Damage Caused by Frightened Horse—Noncompliance with Act
 —Liability of Owner and Driver.
 Liability Not Restricted Hereby.
- 11. Suspension and Revocation of License.
- 12. Penalty for Violation of Act.
- 13. Local Laws—Speed.
 Regulations Governing Issuance of Permits.
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 Life of Permit.
 Sale of Vehicle—Notice to Provincial Secretary.
 Number of Permit Limited to Particular Vehicle.
 Permits of Dealers and Manufacturers.
 Renewal of Permits.
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His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

§ 1. [*Definition of "Motor Vehicle"*].—Whenever the term "motor vehicle" is used in this act, it shall be construed to include automobiles, locomobiles, and all other vehicles propelled otherwise than by muscular power, excepting the cars of electric and steam railways and other motor vehicles running only upon rails, or tracks; but nothing in this act contained shall be construed to apply to or affect bicycles, tricycles or such other vehicles as are propelled exclusively by muscular pedal power.

(2) [*Definition of "Owner"*].—For the purposes of this act the word "owner" shall mean and include owners where a motor vehicle is owned by two or more persons jointly or in common and shall mean and include any person having any proprietary interest whatsoever in any motor vehicle in the province and shall include any firm, partnership, association, corporation or joint stock company.

§ 2. [*Registration—Nonresidents—Dealers and Manufacturers*].—Every resident of this province who is the owner of a motor vehicle, and every nonresident owner whose motor vehicle shall be driven in this province, shall pay to the Provincial Secretary a registration fee for each motor vehicle. The Provincial Secretary shall issue for each motor vehicle so registered a permit properly numbered, stating that such motor vehicle is registered in accordance with this section, and shall cause the name of such owner, with his address and the number of his permit, to be entered in a book to be kept for such purpose:

Provided that the Lieutenant Governor in Council may make regulations regarding the registration and operation of motor vehicles owned by manufacturers or dealers and not kept by such manufacturer or dealer for private use or for hire.

§ 3. [*Issuance of Permits—Renewals and Transfers*].—Such permits shall be issued from the office of the Provincial Secretary, and shall be subject to such conditions regarding renewals or transfers thereof, payment of such fees therefor or otherwise as the Lieutenant Governor in Council shall determine.

§ 4. [*Display of Number and Permit*].—Every motor vehicle while being driven upon the public streets, public roads, parks or other public highways of this province shall carry and have exposed on the said motor vehicle the permit issued as aforesaid by the Provincial Secretary, and shall also have attached to or exposed upon the back of every such motor vehicle, securely fixed in a conspicuous place, the number of the said permit, so as to be plainly visible at all time during daylight, such number to be in plain figures not less than five inches in height, and such number shall be clearly displayed at all times after dusk, and before dawn when such vehicle is in motion in

any street, road or public way, by a lighted lamp or lamps, supplied with a proper shade or shades, and arranged in such manner that the light shall shine upon such number and make it clearly visible to any person in the rear of said vehicle.

§ 5. [*Signaling Device—Lights*].—Each and every motor vehicle shall be equipped and supplied with a proper alarm bell, gong or horn, and the same shall be sounded whenever it shall be reasonably necessary to be sounded for the purpose of notifying pedestrians or others of the approach of such vehicle, and all such vehicles shall carry in the front thereof a lighted lamp on each side of the same in a conspicuous position whenever such vehicle is in motion in any street, road or public way at all times after dusk and before dawn, each of such lights to display prominently upon the glass of the lamp the number of the permit issued as aforesaid by the Provincial Secretary, such number to be not less than five inches in height and displayed in such manner as to be clearly visible to any person in the front of such vehicle.

§ 6. [*Speed—Speedways*].—No motor vehicle shall be run upon any public highway within any city, town or incorporated village at a greater rate of speed than ten miles an hour, or upon any public highway outside of any city, town or incorporated village at a greater speed than twenty miles an hour:

Provided that the council of any city or town may by by-law set apart any public street or highway or any part thereof on which motor vehicles may be driven at any higher rate of speed than herein limited for the purpose of testing the same, and may pass by-laws for regulating and governing the use of any such street or highway or part thereof for the purposes aforesaid.

§ 7. [*Driving in Race or on Wager*].—No person shall drive a motor vehicle upon any public street, highway, road, park, parkway or driveway in this province in a race or on a bet or wager.

§ 8. [*Approaching Horses—Care—Speed—Stopping*].—Every person having control or charge of a motor vehicle shall, whenever upon any public street or way approaching any vehicle drawn by a horse or horses, or any horse upon which any person is riding, operate, manage and control such motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses, and to insure the safety and protection of any person riding or driving the same, and shall not approach such vehicle or horse within one hundred yards or pass the same going in the same direction at a greater speed than ten miles per hour or in the opposite direction at a greater speed than five miles per hour. And if any such horse or horses appear frightened the person in control of such motor vehicle shall reduce its speed and shall not proceed further

towards such animal, unless such movement be necessary to avoid accident or injury or until such animal appears to be under control of its rider or driver:

(2) [*Passing Horses in Cities or Towns*].—Provided however that within the limits of an incorporated city or town the maximum speed allowed in passing such vehicle or horse going either in the same or an opposite direction shall be ten miles per hour.

§ 9. [*Speed at Intersecting Highway or Bridge*].—Upon approaching a crossing of intersecting ways, and also in traversing the crossing or intersection, or in crossing a bridge, the person in control of a motor vehicle shall run it at a rate of speed less than that specified and not greater than is reasonable and proper, having regard to traffic and use of the intersecting ways or bridge.

§ 10. [*Damage Caused by Frightened Horse—Noncompliance with Act—Liability of Owner and Driver*].—Every owner of a motor vehicle shall be liable in damages for any injury or damage caused through horses becoming frightened at such vehicle unless all the provisions of this act and all the regulations made hereunder by the Lieutenant Governor in Council are complied with (the proof of which shall be on him); and the person in charge of such vehicle shall be likewise liable and any person suffering injury or damage as aforesaid may bring an action against such owner and the person so in charge as aforesaid or all or any one or more of them at his election:

Provided however that if the defendant in any such action shall prove that every reasonable precaution was taken by the person in charge of such vehicle at the time of the happening of the accident complained of he shall not be held to be liable.

(2) [*Liability Not Restricted Hereby*].—Nothing in this section shall be held to restrict the liability of any owner or person in charge of any motor vehicle for damage caused through acts other than the frightening of horses.

§ 11. [*Suspension and Revocation of License*].—The Provincial Secretary may at any time suspend or revoke any permit or license issued under the provisions of this act on account of any misconduct of the holder of such license or infraction of the provisions of this act or regulations provided thereunder.

§ 12. [*Penalty for Violation of Act*].—Any person violating any of the provisions of this act shall upon summary conviction before a justice of the peace be liable to a penalty not exceeding fifty dollars, and in default of payment, one month's imprisonment.

§ 13. [*Local Laws—Speed*].—This act shall not apply within the limits of any city or town which has passed or may hereafter pass a by-law regulating the speed or use of automobiles upon the streets

thereof except in so far as the provisions hereof are not inconsistent with such by-law.

[*Regulations Governing Issuance of Permits*].—Pursuant to section 3, the following regulations have been adopted by the Lieutenant Governor in Council governing the issuing of permits and renewals and transfers thereof:

1. [*Fees for Permits, Renewals and Transfers*].—The following fees shall be paid to the department of the Provincial Secretary for motor vehicle permits, renewals and transfers:

For permit on first application	\$3.00
For permit to manufacturer on first application	2.00
For annual renewal of each permit	2.00
For transfer of permit	50c

2. [*Life of Permit*].—A permit shall remain in force during the calendar year in which it is issued and it shall be renewed immediately after the thirty-first day of December in each year.

3. [*Sale of Vehicle—Notice to Provincial Secretary*].—On a change of ownership of a registered motor vehicle the permit shall go with the vehicle, and notice of such change of ownership shall within twenty-four hours be sent by the person to whom such permit was issued to the department of the Provincial Secretary together with the full name and address of the purchaser and the purchaser shall forthwith pay the transfer fee.

4. [*Number of Permit Limited to Particular Vehicle*].—A number corresponding to that of the permit shall be exposed only upon the motor vehicle in respect of which the permit was issued.

5. [*Permits of Dealers and Manufacturers*].—A permit may be issued to a manufacturer of or dealer in motor vehicles upon payment of the fee hereinbefore provided, which said permit shall apply to any motor vehicle which said manufacturer or dealer may from time to time, during the term of the said permit, hold for sale and not for private use or hire.

6. [*Renewal of Permits*].—Such permit may be renewed from year to year upon the terms set out in section 1 hereof.

7. [*Cancellation of Permits*].—If for any reason any permit issued as aforesaid shall lapse or not be required, the Provincial Secretary may at any time cancel any permit issued as aforesaid.

BRITISH COLUMBIA.

ACTS OF 1903, 1904, AND 1905.

- § 1. Mode of Citation of Act.
2. Definition of "Motor Vehicle."

- § 3. Registration—Nonresidents—Dealers and Manufacturers.
- 4. Issuance of Permits.
- 5. Display of Number and Permit.
- 6. Signaling Device—Lights.
- 7. Speed—Speedways.
- 8. Driving in Race or on Wager.
- 9. Approaching Horses—Care—Speed—Stopping.
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PROPOSED ACT OF 1911.

- 1. Title of Act.
- 2. Definitions—"Motor"—"Highway"—"Chauffeur."
- 3. Collection and Disposition of Fees.
- 4. Licensing Authority.
- 5. Annual Report of Licenses—Prosecutions, etc.
- 6. Officers Charged with Enforcement of Act.
- 7. Registration of Vehicles in Province.
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- 9. Use of Unlicensed Vehicles Forbidden.
- 10. Duty to Register and Apply for License.
 - Consequence of Neglect or Refusal to Register.
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- 15. Application for Renewal of License.
- 16. Notice of Sale of Motor.
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- 43. Burden of Proof.
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- 45. Each Member of a Firm Liable.
- 46. Effect of Conviction Against Member of Firm.
- 47. Breach or Offense by Employee.
- 48. Power to Lieutenant-Governor in Council to Make Motor Traffic Regulations.
- 49. Repealing Clause.

An Act to regulate the speed and operation of Motor Vehicles on Highways.

[3 and 4 Edw. VII., c. 41; 5 Edw. VII., c. 37.]

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

§ 1. [*Mode of Citation of Act*].—This act may be cited as the "Motor Vehicles Speed Regulation Act, 1904."

§ 2. [*Definition of "Motor Vehicle"*].—Whenever the term "motor vehicle" is used in this act, it shall be construed to include automobiles, locomobiles, and all other vehicles propelled otherwise than by muscular power, excepting the cars of electric and steam railways, and other motor vehicles running only upon rails or tracks; but nothing in this act contained shall be construed to apply to or affect bicycles, tricycles, or such other vehicles as are propelled exclusively by muscular pedal power.

§ 3. [*Registration—Nonresidents—Dealers and Manufacturers*].—Every resident of this Province who is the owner of a motor vehicle,

and every nonresident owner whose motor vehicle shall be driven in this Province, shall pay annually to the Superintendent of Provincial Police a registration fee of two dollars for every motor vehicle. The Superintendent of Provincial Police shall issue for each motor vehicle so registered a permit properly numbered, stating that such motor vehicle is registered in accordance with this section, and shall cause the name of such owner, with his address and the number of his permit, to be entered in a book to be kept for such purpose. This section shall not apply to manufacturers or dealers in this Province of motor vehicles, except as to vehicles kept by such manufacturer or such dealer for private use, or for hire.

§ 4. [*Issuance of Permits*].—Such permits shall be issued from the office of the Superintendent of Provincial Police, and shall be furnished to persons requiring the same by such persons and subject to such conditions as the Lieutenant-Governor in Council shall name and appoint for that purpose.

§ 5. [*Display of Number and Permit*].—The owner of each and every motor vehicle driving the same upon the public streets, public roads, parks, or other public highways of this Province, shall carry and expose on said motor vehicle the permit issued as aforesaid by the Superintendent of Provincial Police, and he shall also have attached to or exposed upon the back of every such motor vehicle, in a conspicuous place, the number of said permit, so as to be plainly visible at all times during the daylight, such number to be in plain figures not less than three inches in height.

§ 6. [*Signaling Device—Lights*].—Each and every motor vehicle shall be equipped and supplied with a proper alarm bell, gong or horn, and the same shall be sounded whenever it shall be reasonably necessary to be sounded for the purpose of notifying pedestrians or others of the approach of any such vehicle, and all such vehicles shall carry a lighted lamp, or lamps, in a conspicuous position in such vehicle, whenever in motion in any street, alley or public way, at any time after dusk and before dawn, such light to display prominently the number of the permit issued as aforesaid by the Superintendent of Provincial Police.

§ 7. [*Speed—Speedways*].—No motor vehicle shall be run upon any public highway within any city, town or incorporated village at a greater rate of speed than ten miles an hour, or upon any public highway outside of any city, town or incorporated village at a greater speed than fifteen miles per hour: Provided that the Council of any city, town, township or village may by by-law set apart any public street or highway, or any part thereof, on which motor vehicles may be driven at any higher rate of speed than herein limited, for the purpose of testing the same, and may pass by-laws for regulating and

governing the use of any such street or highway or part thereof for the purposes aforesaid.

§ 8. [*Driving in Race or on Wager*].—No person shall drive a motor vehicle upon any public street, highway, road, park, parkway or driveway in this Province in a race, or on a bet or wager.

§ 9. [*Approaching Horses—Care—Speed—Stopping*].—Every person having control or charge of a motor vehicle shall, whenever upon any public street or way and approaching any vehicle drawn by horse or horses, or any horse upon which any person is riding, operate, manage and control such motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any horse or horses, and to insure the safety and protection of any person riding or driving the same. And if any such horse or horses appear frightened, the person in control of such motor vehicle shall reduce its speed, and if requested by signal or otherwise by the driver of such horse or horses, shall not proceed further towards such animal, unless such movement be necessary to avoid accident or injury or until such animal appears to be under the control of its rider or driver.

§ 10. [*Speed at Intersecting Highway or Bridge*].—Upon approaching a crossing of intersecting ways, and also in traversing the crossing or intersection, or in crossing a bridge, the person in control of a motor vehicle shall run it at a rate of speed less than that specified, and not greater than is reasonable and proper, having regard to the traffic and use of the intersecting ways or bridge.

§ 11. [*Penalties for Violation of Act—Recovery*].—Any person violating any provision of this act shall for the first offense incur a penalty not exceeding the sum of twenty-five dollars, and for the second or subsequent offense shall incur a like penalty, or may be imprisoned for the term not exceeding one month. And the penalties hereby imposed shall be recoverable upon proceedings under "Summary Convictions Act."

PROPOSED ACT OF 1911.

An Act to regulate the Use and Operation of Motor Vehicles.

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

§ 1. [*Title of Act*].—This act may be cited as the "Motor-traffic Regulation Act, 1911."

§ 2. [*Definitions—"Motor"—"Highway"—"Chauffeur"*].—In the construction of this act the following expressions shall have the following meanings respectively:—

(a.) "Motor" shall mean and include automobiles, locomobiles, motor-cycles, and all other vehicles propelled otherwise than by muscular power, excepting the cars of electric and steam railways and other motor-vehicles running only upon rails or tracks;

(b.) "Highway" shall mean and include any and every road, street, lane, alley, park, parkway, or right-of-way over which vehicles are driven within the Province of British Columbia; and

(c.) "Chauffeur" shall mean and include every person operating a motor as driver, mechanic, paid employee, lessee, renter, or employed in any capacity on a motor carrying passengers or freight for hire.

§ 3. [*Collection and Disposition of Fees*].—All fees paid under this act shall form part of the Consolidated Revenue Fund of this Province:

(a.) The Superintendent of Provincial Police and every Government Agent and every officer of the Provincial police delegated in this behalf by the Superintendent of Provincial Police shall have power to collect and receipt for fees under this act, and all such fees shall, by the collecting official, be transmitted to the Minister of Finance and Agriculture.

§ 4. [*Licensing Authority*].—All licenses under this act shall be granted, renewed, permitted to be assigned, and transferred or cancelled, as the case may be, by the Superintendent of Provincial Police pursuant to and in accordance with the provisions of this act.

§ 5. [*Annual Report of Licenses, Prosecutions, etc.*].—The superintendent of Provincial Police shall annually, on or about the fifteenth day of January in each year, report to the Attorney-General under this act, and each such report shall contain a statement of—

(a.) The number and description of licenses, and of the names of applicants to whom licenses were granted during the year:

(b.) The names of applicants to whom licenses were not granted:

(c.) The prosecutions for contravention of this act and the number of convictions and acquittals respectively:

(d.) The total number in force of each class of licenses authorized to be issued under this act, showing the increase or decrease in aggregate number and the number of licenses which have lapsed or have been forfeited during the preceding year.

§ 6. [*Officers Charged With Enforcement of Act*].—The Superintendent of Provincial Police shall be the official primarily charged with the enforcement of the provisions of this act, and he shall have power to assign to every chief constable of Provincial police and every police constable such duties under this act as by the Superintendent of Provincial Police may be deemed expedient: Provided, always, that every chief of police and every police officer and every constable in the Province of British Columbia shall aid in the enforcement of and shall by all possible lawful means prevent contra-

ventions of the provisions of this act, and prosecute every person who is upon reasonable grounds of belief suspected of or charged with the contravention of any of the provisions of this act.

§ 7. [*Registration of Vehicles in Province*].—Every motor now in the Province of British Columbia shall be registered with the Superintendent of Provincial Police, pursuant to the provisions of this act, at the expiration of the period for which the annual registration fee has heretofore been paid in respect of such motor, or if no such fee has been paid, then forthwith after the passing of this act. The registration fee prescribed by section 14 of this act shall not be payable in respect of any motor licensed in this Province before this act.

§ 8. [*Registration of Vehicles Brought into Province*].—Every motor hereafter brought into the Province of British Columbia, except a motor brought into the Province temporarily for touring purposes for any period not exceeding thirty days, shall, within fourteen days after it is brought into the Province and before it is used or operated upon or along any highway, be registered with the Superintendent of Provincial Police pursuant to the provisions of this act:

(1.) Every motor hereafter brought into the Province of British Columbia for temporary use for touring purposes for any period not exceeding thirty days shall, by the owner of the person in possession thereof, before it is used or operated upon or along any highway, be registered with the Superintendent of Provincial Police by delivering to such superintendent or to any chief constable of Provincial police, or Provincial police constable, a notice in the form following:—

To the Superintendent of Provincial Police, Victoria, B. C.:

You are hereby notified that the motor-car herein described has been brought into the Province of British Columbia at — from — for temporary use for touring purposes, and will be taken back to — within thirty days from the date hereof.

Particulars of Motor:

Made by —

Maker's number —

Owned by —

Address —

Number affixed to motor —

Name of chauffeur —

Brought into British Columbia by —

Dated —

(Signature in full.) —

(2.) Any person bringing any motor into the Province of British Columbia for temporary use for touring purposes, and failing or neglecting to forthwith give the notice in subsection (1) of this section prescribed, or giving such notice and making therein any false statement, shall be guilty of an offense against this act.

§ 9. [*Use of Unlicensed Vehicles Forbidden*].—No person shall have, drive, or use a motor on or along any highway unless such motor has been registered and licensed pursuant to the provisions of this act, or has been brought into the province for temporary use for touring purposes for any period not exceeding thirty days, and the requisite notice has been given to the Superintendent of Provincial Police.

§ 10. *Duty to Register and Apply for License*.—Every person owning and every person controlling or being in possession of a motor within the Province of British Columbia, except a motor brought into the Province temporarily for touring purposes and registered under subsection (1) of section 8 of this act, shall be under the obligation to register and apply for a license in respect of such motor under and pursuant to the provisions of this act in that behalf:

(1) *Consequence of Neglect or Refusal to Register*.—Any person upon whom, pursuant to the provisions of this act, it shall be incumbent to register a motor and to apply for a license in respect of such motor shall, in respect of any neglect or refusal to register or to apply for such license pursuant to the provisions of this act, be guilty of an offense against this act:

(2) *Consequence of False Statement in Application*.—Any person wilfully making in any such registration and application for a license any statement knowing the same to be false shall be guilty of an offense against this act.

§ 11. *Form of Application*.—Every applicant for the registration of a motor and for the issuance of a license in respect of such motor shall sign and forward to the Superintendent of Provincial Police, or leave at the office of a chief constable of Provincial police, or deliver at the office of the nearest government agent for transmission to the Superintendent of Provincial Police, an application in the following form:

To the Superintendent of Provincial Police, Victoria, B. C.:

Application is hereby made for the registration of the under-described motor and for a license in respect thereof.

Attached is a receipt from _____ for the sum of _____ dollars (\$) for the registration fee of ten dollars (\$10), and also in payment of a license fee to the thirty-first December next.

The particulars of the said motor are as follows:

- (1.) Made by _____.
- (2.) Made at _____.
- (3.) Maker's number _____.
- (4.) Number stamped on engine _____.
- (5.) Number of cylinders _____.
- (6.) Horse-power _____.
- (7.) Imported by _____.
- (8.) Owned by _____.
- (9.) If for hire or private use _____.
- (10.) Style and capacity _____.
- (11.) Street and number of garage or place where to be kept _____.
- (12.) Date _____.

(Signature of applicant in full.) _____

§ 12. [*Duration of License*].—Every license issued under this act shall expire on the thirty-first day of December next following its issuance, and thereafter if renewed on the thirty-first day of December in each renewal year.

§ 13. [*Issuance and Form of License*].—Upon receipt from the applicant of the application in form by this act prescribed, the Superintendent of Provincial Police shall, upon being satisfied of the truth of the facts stated in the application and that the fee prescribed by this act has been duly paid, issue to the applicant a license expiring on the thirty-first day of December next following its issuance, and made out in the form and containing the particulars following:

Motor License Number B. C. —.

Particulars of Motor:

1. Made by —.
2. Made at —.
3. Maker's number —.
4. Number stamped on engine —.
5. Number of cylinders —.
6. Horse-power —.
7. Imported by —.
8. Owned by —.
9. If for hire or for private use —.
10. Style and capacity —.

11. Street and number of garage or place where to be kept —.

This is to certify that —, of —, British Columbia, has been duly registered as the owner of the motor described in the subjoined particulars, and is licensed in respect of and to use and operate such motor until the thirty-first day of December next.
Dated —.

(Superintendent of
Provincial Police.)

§ 14. [*License Fee*].—Every owner of a motor and every person in possession or control of a motor shall pay to the Minister of Finance and Agriculture a registration fee of ten dollars in respect of each and every such motor, and in addition thereto an annual license fee of

ten dollars in respect of each and every such motor: Provided that where one person is owner and another person is in possession and control of the same motor, only one registration fee and one annual license fee need be paid in respect of such motor; and provided, also, that when registration takes place later than the month of March in any year, the license fee to be payable and paid shall be computed at the rate of one dollar per month for each month and portion of a month between the date of registration and the thirty-first day of December next ensuing remaining unexpired:

(1.) *Recovery of Fee by Action.*—Every fee or license by this act made payable may, by the Crown in right of the Province of British Columbia, or by the Superintendent of Provincial Police or by any Provincial police officer, or by any person by the Superintendent of Provincial Police in that behalf deputed, and in addition to any other lawful or possible mode of enforcement or recovery, be recovered in any court of competent jurisdiction with costs of suit as debt due by the person who by right and under and pursuant to the provisions of this act should have paid such fee or license.

§ 15. *Application for Renewal of License.*—Every licensee holding in respect of any motor a license issued under this act shall, on or before the fifteenth day of December in the year of issuance and in each year following the year of issuance of such license, apply for a renewal of such license for one year from the date of its expiration; such application shall, together with the fee of ten dollars to cover the renewal period of one year, be forwarded to the Superintendent of Provincial Police, or be left at the office of any chief constable or Provincial police or government agent for transmission to the Superintendent of Provincial Police, and shall be in the form following:

To the Superintendent of Provincial Police, Victoria, B. C.:

I hereby apply for a renewal of Motor License Number B. C. _____ for one year from the first day of January next.

Attached is a receipt for ten dollars (\$10) from _____, being amount paid for the renewal fee covering the renewal period now applied for.

Dated _____.

(Signature of applicant in full.) _____

§ 16. *Notice of Sale of Motor.*—In the event of the sale of any motor registered and licensed under this act, it shall be the duty of the vendor and purchaser to sign and to forthwith cause to be transmitted to the Superintendent of Provincial Police a notice of assignment in the form following:

To the Superintendent of Provincial Police, Victoria, B. C.:

Notice is hereby given that the motor, the particulars whereof are set forth in Motor License Number B. C. _____, has this day been transferred by the undersigned _____ to the undersigned _____, and that the garage or place where the said motor will hereafter be kept is at _____, and that the said motor will now be used for the purposes following:

Dated _____.

(Signature of vendor in full.) _____

(Signature of purchaser in full.) _____

§ 17. *Notice of Removal of Motor from Province and of Destruction of Motor.*—In the event of any motor licensed under this act being permanently removed from the Province of British Columbia, or being broken up so that it cannot be again repaired or used as a motor, the licensee in respect thereof shall sign and cause to be transmitted to the Superintendent of Provincial Police a notice in the form following:

To the Superintendent of Provincial Police, Victoria, B. C.:

Notice is hereby given that the motor covered by Motor License Number B. C. _____, which license is hereto attached, has been shipped out of the Province of British Columbia, and will not be returned to the said province [*or has been broken up and destroyed beyond all possibility of being repaired and used as a motor*], and the said Motor License Number B. C. _____ is hereby relinquished.

Dated _____.

(Signature of licensee in full.) _____

§ 18. [*Chauffeurs—Necessity for License*].—No person under the age of seventeen years shall drive or operate a motor upon or along any highway. No intoxicated person or person under the influence of intoxicating liquor shall drive a motor upon or along any highway. No chauffeur shall have, drive, operate, or use a motor upon or along any highway unless such chauffeur has been licensed pursuant to the provisions of this act, and holds a current and unexpired license issued under and by virtue of the provisions of this act. Every chauffeur and every person desiring or intending to act as a chauffeur within the Province of British Columbia shall be under obligation to apply for a license to act as a chauffeur under and pursuant to the provisions of this act in that behalf:

(1.) [*Neglect or Refusal to Secure License*].—Any person upon whom, pursuant to the provisions of this act, it shall be incumbent to apply for a license as a chauffeur shall, in respect of any neglect

or refusal to apply for such license pursuant to the provisions of this act, be guilty of an offense against this act:

(2.) [*False Statements in Application*].—Any person wilfully making in any such application for a license as chauffeur any statement knowing the same to be false shall be guilty of an offense against this act:

(3.) [*Vehicles Owned by Municipalities*].—The provisions of this section shall not apply to motors owned by municipal corporations, or as part of a public fire department, or to ambulances.

§ 19. *Application for Chauffeur's License*.—Every applicant for a license to act as a chauffeur in the Province of British Columbia under this act shall sign and forward to the Superintendent of Provincial Police, or leave at the office of a chief constable of Provincial police or deliver at the office of the nearest government agent for transmission to the Superintendent of Provincial Police, an application in the following form:

To the Superintendent of Provincial Police, Victoria, B. C.:

Application is hereby made for the issuance to the undersigned of a license to act as a chauffeur in the Province of British Columbia for a period ending on the thirty-first day of December next.

Attached is a receipt from — for the sum of five dollars (\$5) in payment of license fee to the said thirty-first day of December next.

I certify to the correctness of the matters hereinafter set forth, that is to say:

- (1) Name of applicant in full _____.
- (2) Place of residence _____.
- (3) Particulars of experience in the handling of motors _____.
- (4) Nationality _____.
- (5) Age _____.
- (6) Previous occupation _____.
- (7) Name and addresses of two persons to whom application can be made for particulars as to character of applicant and as to fitness to hold a license as chauffeur _____.

Dated _____.

(*Signature of applicant in full.*) _____

§ 20. *Duration of Chauffeur's License—License Fee*.—Every license to a chauffeur issued under this act shall expire on the thirty-first day of December next following its issuance and thereafter on the thirty-first day of December in each renewal year. Every chauffeur shall pay for his license an annual fee of five dollars.

§ 21. [*Issuance of License—Form*].—Upon receipt from an appli-

cant for a license as chauffeur of the application in form by this act prescribed, the Superintendent of Provincial Police may, upon being satisfied of the truth of the facts stated in the application and of the fitness and capability of the applicant to act as a chauffeur, and that the fee prescribed by this act has been duly paid, issue to the applicant a license to act as chauffeur expiring on the thirty-first day of December next following its issuance, and made out in the form and containing the particulars following:

Chauffeur's License Number B. C. _____.	
Name of applicant in full _____.	This is to certify that _____,
Place of residence _____.	of _____, in _____, British Colum-
Particulars of experience in the handling of motors _____.	bia, being the person described in
Nationality _____.	the subjoined particulars, has been
Age _____.	licensed to act as a chauffeur in
Previous occupation _____.	the Province of British Columbia
Names and addresses of two persons to whom application can be made for particulars as to character of applicant and as to fitness to hold a license as chauffeur _____.	until the thirty-first day of December next.
	Dated _____.
	_____ (Superintendent of Provincial Police.)

§ 22. *Application for Renewal.*—Every licensed chauffeur shall, on or before the fifteenth day of December in each year, apply for a renewal of his license, and such application shall be accompanied with a fee of five dollars to cover renewal period, and shall be in the form following:

Application is hereby made for the renewal of Chauffeur's License Number B. C. _____.

Attached is a receipt from _____ for the sum of five dollars (\$5) in payment of license fee for the renewal period.

Dated _____.

(Signature of applicant in full.) _____

§ 23. [*Cancellation or Suspension of Chauffeur's License*].—In the event of any licensee holding a chauffeur's license issued under this act contravening any of the provisions of this act or by reason of reckless or negligent driving, or by reason of the use of intoxicants, or for any other reason becoming, in the opinion of the Superintendent of Provincial Police, unfit to act as a chauffeur, the Superintendent of Provincial Police shall, upon proof to his satisfaction of the fact or existence of such contravention or unfitness, and without the necessity of holding any formal or public or other hearing, either cancel such chauffeur's license absolutely, or suspend such chauffeur's license and

all rights of the licensee thereunder for such period as the superintendent of provincial police may think fit. In the event of cancellation of license, all the rights of the licensee thereunder shall forthwith abate and cease absolutely.

§ 24. [*Equipment of Vehicles—Search Lights*].—No motor shall carry what is known to the trade as a searchlight or any intermittent or flash-light.

§ 25. *Number of License to be Affixed on Every Motor*.—Every motor shall have attached to and exposed on the back thereof, securely fixed in a conspicuous place, a number in plain figures not less than four inches in height, being the number of the license issued in respect of such motor by the Superintendent of Provincial Police; and such number so placed on such motor shall be placed along the centre line of the back of the body of such motor in the most conspicuous place, and so that there be nothing to obstruct sight and view thereof. No number other than that contained in the current license issued by the Superintendent of Provincial Police shall be exposed on any part of any motor. Every number affixed to a motor pursuant to the provisions of this act shall be kept free from dirt and obstructions of every kind, and shall be affixed and kept so that the same always may be and always shall be plainly visible.

§ 26. *Display of Number at Night*.—Every motor shall be equipped with and shall carry at night a lighted lamp so placed as to illuminate conspicuously at all times between dusk and dawn the number placed on the back of the body of the said motor, and which shall also display a red light visible from the rear.

§ 27. [*Alarm-bell to Be Sounded at Crossings*].—Every motor shall be equipped with an alarm bell, gong, or horn, and the same shall be sounded whenever it shall be reasonably necessary to notify pedestrians or others of the approach of such motor; and every motor shall carry in front thereof, in addition to all other prescribed lights and numbers, two lamps in a conspicuous position in such motor whenever in motion in any highway, such lamps to display prominently upon the glass thereof the number of the license of the motor in figures painted black not less than one inch in height, such glass being ground or stippled with white paint, and such lamps to be always well and efficiently lighted when such motor is on any highway at any time after dusk and before dawn.

§ 28. *Motors to be Locked When Unused*.—Every motor shall be provided with a lock, key, or other device to prevent such motor being set in motion, and no motor shall be permitted to stand or remain unattended in any highway unless locked with such lock, key, or device.

§ 29. [*Approaching Horses—Care—Speed—Stopping*].—Every person having control or charge of a motor shall, whenever upon any highway or approaching any vehicle drawn by horse or horses, or any horse upon which any person is riding, operate, manage, and control such motor in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses, and to insure the safety and protection of any person riding or driving the same; and—

(1.) Shall not approach such vehicle, horse, or horses within one hundred yards at a greater speed than ten miles per hour, or pass the same going in the opposite direction at a greater speed than ten miles per hour; and

(2.) If going in the same direction shall signal his desire to pass, and give the rider or driver an opportunity to turn out so that he may be passed with safety; and

(3.) If signalled by any driver to stop, or if any horse which the motor is approaching or passing appears frightened or unruly, shall stop such motor, including the engine, and shall remain stationary so long as may be necessary to allow such rider or driver to pass or until directed by such rider or driver to proceed.

§ 30. [*Duty to Stop on Meeting Funeral Procession*].—The driver of a motor upon any highway outside the limits of a city shall, upon meeting or overtaking a funeral procession, stop his motor, and, where practicable, shall turn out into any intersecting street, road, or lane until the funeral procession has passed.

§ 31. [*Passing Street Cars—Speed*].—No motor shall pass or attempt to pass, at a greater rate of speed than four miles an hour, a street car which is stationary for the purpose of taking on or discharging passengers.

§ 32. [*Returning in Case of Accident—Report to Police*].—In case an accident occurs to any person, whether on foot or horseback or in a vehicle, or to any horse or vehicle in charge of any person in proximity to any motor or owing to the presence of any motor on any highway, the person in charge of such motor shall return to the scene of the accident and give in writing to any one sustaining loss or injury his name and address, and also the name and address of the owner of such motor, and the number of the license of the said motor; and from and after the happening of such accident, if in a city municipality, shall within six hours furnish to the chief of police or other officer of police of such city, and if in a district municipality shall within twenty-four hours furnish to the clerk or to some police officer of the municipality, and if in an unincorporated locality shall within twenty-four hours furnish to some provincial officer or constable, a

written report of such accident, setting forth with particularity all material facts.

§ 33. [*Owner Made Responsible for Violations of Act*].—The owner of a motor for which a license is issued under the provisions of this act shall be held responsible for any violation of this act, or of any regulations provided by order of the Lieutenant-Governor in Council, by any person intrusted with the possession of such motor.

§ 34. [*In Case of Accidents Onus Cast Upon Owners*].—When any loss or damage is incurred or sustained by any person by reason of the proximity or presence of a motor on a highway, the onus of proof that such loss or damage did not arise through the negligence or improper conduct of the owner or driver or chauffeur of the motor shall be upon the owner of such motor.

§ 35. *Rate of Speed*.—In addition to the obligation to comply with the provisions of section 29 of this act, every person having charge or control of a motor shall be governed by the provisions of this section. No motor shall be run or driven upon any highway within any city, town, village, or settlement at a greater rate of speed than ten miles an hour, or upon any highway outside of any city, town, or village at a greater speed than twenty-five miles per hour in open country and twelve miles per hour in wooded country: Provided that the council of any municipality may by by-law set apart any portion of any highway within the limits of the municipality on which motors may be driven at any higher rate of speed than hereinbefore limited for the purpose of testing motors, and may pass by-laws for regulating and governing the use of any such portions of highway for the purpose aforesaid.

§ 36. *Rate of Speed at Crossways*.—Upon approaching a crossing or intersection of highways, and also in traversing the crossing or intersection, and in crossing a bridge, every person in control of a motor shall run it at a rate of speed less than that above specified, and not greater than is reasonable and proper, having regard to the traffic and use of the intersecting ways or bridge.

§ 37. [*Driver of Vehicle to Comply with Rules of Road*].—Every person having charge or control of a motor on any highway shall comply with the following rules of the road:

- (1.) Drive always on the left-hand side of the road;
- (2.) On meeting a vehicle, keep to the left; and
- (3.) On overtaking and passing a vehicle, pass on the right.

§ 38. *Concurrent Powers to Municipal Council*.—In addition to the provisions for motor-traffic regulation contained in this act, the municipal council of any municipality in the Province of British Co-

lumbia shall be deemed to have always had power to, and may by by-law and concurrently with and in addition to the exercise of any powers conferred upon such municipal council by the "Municipal Clauses Act" or by any other act of the legislature of the Province of British Columbia, provide and enforce by-laws regulating traffic and motors on highways in every respect, save as to the rules of the road and rate of speed, and, in the case of motors not used or plying for hire, save as to license fees, as such municipal council may think fit; and no such by-law, whether now in force or hereafter to be passed, shall be quashed or set aside or declared ineffectual or void by reason of any informality or by reason of any want of declaration of the power under and by virtue of which such by-law is passed, or on or for or by reason of any ground or matter whatsoever; but every such by-law shall be valid and effectual and shall be enforceable and enforced so as to carry out the intention of the municipal council passing said by-law as expressed therein.

§ 39. [*Penalties for Violation of Act*].—Any person contravening or committing any breach of or committing any offense against any of the provisions of this act, or refusing, omitting, or neglecting to fulfil, observe, carry out, or perform any duty or obligation by this act created, prescribed, and imposed, shall be liable upon summary conviction to a penalty of not less than twenty-five dollars and not more than three hundred dollars.

§ 40. *Enforcement of Penalty*.—Every such penalty shall be recoverable by distress and sale of the goods and chattels of the person against whom the same is adjudged and on whom the same is imposed; and in default of payment and in default of distress, every such penalty shall be enforced by imprisonment, with or without hard labor, for any period not exceeding six months.

§ 41. *Limitation*.—Any information for or in respect of any offense against the provisions of this act shall be laid before the expiration of six months from the time of the happening of such offense.

42. *Pleadings and Evidence—Description of Offense*.—The description of any offense under this act in the words of this act, or in any words of like effect, shall be sufficient in law; and any exception, exemption, provision, excuse, or qualification, whether it does or does not accompany the description of the offense in this act, may be proved by the defendant, but need not be specified or negatived in the information; but if it be so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.

§ 43. *Burden of Proof*.—In any prosecution under this act, whenever it appears that the defendant or accused has done any act or has been guilty of any act or omission in respect of which, were he

not duly licensed, he would be liable to some penalty under this act, it shall be incumbent upon the defendant to prove that he is duly licensed; and in any prosecution of any person in charge or control of any motor or of the owner of such motor for any offense against the provisions of this act occurring or alleged to have occurred whilst such motor was in motion on any highway, and in any action, suit, or proceeding against any such person or owner for the recovery of damages for injuries alleged to have been caused by any motor whilst in motion on a highway, such person or owner shall be deemed to have been driving and using such motor at an unlawful rate of speed until the contrary be proven, and it shall be incumbent upon such person or owner to prove the actual rate of speed at which such motor was being driven and used at the time in question in the prosecution or in the action, suit, or proceeding.

§ 44. *Proof of License.*—The production of a license which, on its face, purports to be duly issued, and which, were it duly issued, would be a lawful authority to the defendant accused of an act or omission, shall be prima facie evidence that the defendant accused is so authorized; and in all cases the signature to and upon any instrument purporting to be a valid license shall prima facie be taken to be genuine.

§ 45. *Each Member of a Firm Liable.*—Each member of a licensed partnership shall be liable to the penalties imposed against licensees for breach of the provisions of this act.

§ 46. *Effect of Conviction against Member of Firm.*—For the purposes of the consequences of any conviction under this act, a conviction against any person who is a member of a licensed partnership, whether made while he is a member of such partnership or prior thereto, shall have the same effect as if such conviction had been against each member of the said partnership.

47. *Breach or Offense by Employee.*—Every offense against the provisions of this act committed by the employee, servant, agent, or workman of any person holding any license for owning or operating a motor shall be deemed to be the offense of the person holding such license, and such person shall be answerable for and shall be punished for such offense: Provided that nothing herein shall absolve the actual offender from guilt and punishment, but he shall be punished also.

§ 48. *Power to Lieut.-Governor in Council to Make Motor-Traffic Regulations.*—The Lieutenant-Governor in Council may from time to time, by order or orders in council, make rules not inconsistent with this act, to be styled "Motor-traffic Regulations," for carrying this act into effect, and any such rules may from time to time be rescinded and new rules in lieu thereof made.

§ 49. *Repealing Clause.*—Chapter 41 of the Statutes of 1903 and 1904, being "Motor Vehicles Speed Regulation Act, 1904," is hereby repealed.

MANITOBA.

ACT OF FEB. 26, 1908.

- § 1. Mode of Citation of Act.
2. Definitions—"Motor Vehicle"—"Highways"—"Chauffeur."
3. Registration—Details of Application.
4. Registration Fee and Number.
5. Certificate of Registration—Seal for Display of Number.
6. Contents of Certificate.
7. Duration of License.
8. Renewals—Fee.
9. Notice of Expiration of License.
10. Notice of Sale of Vehicle—New Certificate—Fee.
11. Display of Number.
12. Equipment—Lights—Number to be Shown.
13. Signaling Device—Duty to Sound.
14. Use of Vehicle Conditioned upon Compliance with Act.
15. Number to be Kept Visible.
16. Search Lights Forbidden.
17. Dealers and Manufacturers—Provisions Respecting.
18. Chauffeurs—License—Badge.
19. Transfer of Badge or Use of False Badge.
20. Operation of Vehicle Conditioned upon Compliance with Act.
21. Disposition of Fees.
22. Speed Generally—Regard to Traffic.
23. Speed in Cities, etc., and at Crossways.
24. Driving in Race or on Wager.
25. Age of Operators.
 - Driving While Intoxicated.
26. Devices to Prevent Use when Left Unattended.
27. Mufflers—Cutting out Forbidden.
28. Speed at Bridges, Curves, Hills, etc.
 - Stopping to Permit Passage of Horse on Graded Way.
29. Approaching Horses—Care—Speed.
30. Stopping on Signal from Driver of Horse—Rendering Assistance.
 - Stopping Noise.
 - Requirements Applicable to Rural Municipalities Only.

- § 31. Keeping to Right on Passing Horse—Crossways.
- 32. Overtaking Horse—Rendering Assistance.
- 33. Stopping in Case of Accident—Assistance—Disclosing Identity.
- 34. Races—Setting Aside Highway.
- 35. Municipal Regulations Prohibited.
- 36. Speed in Park or Parkway.
- 37. Suspension and Revocation of License.
- 38. Burden of Proof in Actions for Negligence.
- 39. Civil Actions not Abridged.
- 40. Distribution and Posting of Copies of Act.
- 41. Penalties for Violation of Act—Second Offense.
- 42. Record of Convictions—Cancellation of License.
- 43. Arrest of Offenders without Warrant.
- 44. Assisting Officer to Make Arrest.
- 45. Detention of Vehicle by Officer Arresting—Release on Security.
- 46. Persons Arrested to Be Tried Promptly.
- 47. Disposition of Fines Recovered.
- 48. Nonresidents—Registration.
- 49. Offense Committed Inadvertently—Discretion of Court to Dismiss.

An Act Respecting Motor Vehicles.

[Assented to Feb. 26, 1908; 8 Edw. VIII., c. 34.]

His Majesty, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

§ 1. [*Mode of Citation of Act*].—This act may be cited as "The Motor Vehicle Act."

§ 2. [*Definitions—Motor Vehicle—Highway—Chauffeur*].—The term or expression "motor vehicle" used in this act, unless the same be contrary to or inconsistent with the context, shall be construed to include automobiles, locomobiles, and all other vehicles propelled by any power other than muscular power, excepting traction engines and such motor vehicles as run only upon rails or tracks; the term or expression "highway" or "public highway" shall be construed to mean any public highway or road, street, lane, alley, park, parkway, driving or public place within or outside of any city, town or incorporated city, town or village; the term or expression "chauffeur" shall mean any person operating a motor vehicle as mechanic, paid employee or for hire.

§ 3. [*Registration—Details of Application*].—Every person now owning or hereafter acquiring a motor vehicle shall, for every such vehicle owned by him, file in the office of the municipal commissioner

a statement containing his name and address, with a brief description of the vehicle so owned by him, including the name of the maker, factory number, style of vehicle and motor power, on a blank to be prepared by said municipal commissioner for the purpose.

§ 4. [*Registration Fee and Number*].—Upon the filing of such statement as aforesaid, and the payment of a fee of five dollars, said municipal commissioner shall register such motor vehicle in a book or index to be kept for that purpose and assign it a distinctive number.

§ 5. [*Certificate of Registration—Seal for Display of Number*].—The municipal commissioner shall forthwith issue and deliver to the owner of such motor vehicle a certificate of registration, together with a seal of aluminum, or other suitable metal, which said seal shall be circular in form, approximately two inches in diameter, and shall have impressed thereon the words "Registered Motor Vehicle No.—, Province of Manitoba," with the registration number inserted therein, which said seal shall at all times thereafter be conspicuously displayed on the motor vehicle to which such number has been assigned.

§ 6. [*Contents of Certificate*].—The certificate of registration referred to in the next preceding section shall contain the same words and number as the seal, and shall further contain the name of the owner of the vehicle registered, his address, the name of the maker of the said vehicle, the factory number, style and motive power, and the date of registration, which date of registration shall be the day on which the application is received at the office of the municipal commissioner.

§ 7. [*Duration of License*].—Such certificate of registration shall remain in force for one year from and after the first day of the month following the date of such certificate.

§ 8. [*Renewals—Fee*].—Applications for renewal of any certificate of registration shall be made to the municipal commissioner at any time within thirty days previous to the date of the expiration of such certificate, and if no application for a renewal is received during the time above mentioned the municipal commissioner shall cancel such certificate and may reissue the number. A fee of two dollars shall be paid to the municipal commissioner for such renewal of a certificate of registration.

§ 9. [*Notice of Expiration of License*].—In case no renewal of a certificate of registration is received in or before the month preceding the date of expiration of such certificate, the municipal commissioner shall send written notice of the date when such certificate will expire.

§ 10. [*Notice of Sale of Vehicle—New Certificate—Fee*].—Upon the sale of a registered motor vehicle, registered pursuant to the provisions of this act, the vendor shall return to the municipal commis-

sioner, within thirty days from the date of such sale, his said certificate and seal, and such certificate shall be cancelled and the number may be reissued by the municipal commissioner: Provided, that the vendor may, upon application at the time of returning such certificate and seal, have a new certificate issued to him, containing the original registration number for a motor vehicle described in such application and owned by him and which is not licensed under this act. A fee of two dollars shall be paid to the municipal commissioner for the issue of such new certificate, which shall remain in force for one year from and after the first day of the month following the date of issue.

§ 11. [*Display of Number*].—In addition to the conspicuous display of the seal as provided in section five of this act, it shall be the duty of the owner of each and every motor vehicle to procure at his own expense and have conspicuously displayed at all times upon the front and rear of such vehicles, above the axle, in such manner as to be plainly visible, the number assigned to it by the municipal commissioner, said number to be in Arabic numerals, black on a white ground or white on a black ground and not less than four inches in height and each stroke to be of a width not less than one-half inch. The number on the front of said motor vehicle shall be as far forward and as high from the ground as to render it distinctly visible.

§ 12. [*Equipment—Lights—Number to Be Shown*].—Every motor vehicle shall carry, during the period from sunset to one hour before sunrise, at least two lighted lamps, showing white lights visible at least two hundred feet in the direction toward which each motor vehicle is proceeding, and shall also exhibit at least one red light, visible in the reverse direction, attached to the rear of such motor vehicle. Upon each of the glass fronts of the two aforesaid lamps, showing white lights, shall be displayed in such manner as to be plainly visible, when such lamps are lighted, the number of the certificate issued aforesaid, such figures to be separate Arabic numerals, not less than one inch in height.

§ 13. [*Signaling Device—Duty to Sound*].—Every motor vehicle shall also be equipped with an alarm bell, gong or horn, and the same shall be sounded whenever it shall be reasonably necessary to notify pedestrians or others of the approach of such vehicle.

§ 14. [*Use of Vehicle Conditioned upon Compliance with Act*].—No motor vehicle shall be used or operated upon any public highway after thirty days after the coming into force of this act, which shall not have been registered under this act or which shall not display thereon a registration seal of the kind or character prescribed by section 5, and on the front and rear of said motor vehicle a number as provided by sections 11 and 12, or which shall display thereon a fictitious seal

or number belonging to any other vehicle, or which shall not have displayed at night the lighted lamps required by section 12 hereof.

§ 15. [*Number to Be Kept Visible*].—Such registration seal and numbers shall be kept free from dirt and obstruction of any kind.

§ 16. [*Searchlights Forbidden*].—No motor vehicle shall carry what is known to the trade as a searchlight or any light other than a fixed light.

§ 17. [*Dealers and Manufacturers—Provisions Respecting*].—Every manufacturing company, or dealer in automobiles, or persons conducting an automobile livery, may, instead of registering such automobiles or other similar motor vehicles owned by him or them, make application upon a form provided by the municipal commissioner for a general registration, and the said municipal commissioner shall, if satisfied of the facts stated in said application, issue to the applicant one general certificate of registration together with five aluminum seals, as provided for in section 5 of this act, and all automobiles and other motor vehicles owned by such manufacturing company, dealer or livery men, and having displayed thereon a seal containing the general registration number, shall until sold, be regarded as registered motor vehicles under this act. The fee for such registration, which shall include five aluminum seals, shall be twenty-five dollars. Additional duplicate seals may be obtained by any manufacturing company, dealer or livery man upon application to the municipal commissioner and on the payment of five dollars for each duplicate seal. Every manufacturing company, dealer in automobiles or livery man, may renew such certificate of registration on the payment of twenty-five dollars in the same manner and under the same conditions as are provided for the renewal of owners' licenses in section 4 of this act. Provided, that no general license, issued in accordance with the provisions of this section, shall apply or be used upon any motor vehicle which may be owned individually by any member or stockholder of any manufacturing company, firm or association.

§ 18. [*Chauffeurs—License—Badge*].—Every person desiring to operate a motor vehicle as a chauffeur shall file in the office of the municipal commissioner, on a form to be furnished by the municipal commissioner, an application which shall include his name and address and contain a statement signed by at least two responsible persons, setting forth that the applicant is a person of reliability, experienced in the operation of motor vehicles, and upon the filing of said statement, as aforesaid, said municipal commissioner shall register the name of such chauffeur in a book or index to be kept for the purpose, and assign to him a distinctive number, and deliver to him a certificate of registration, together with a badge of aluminum or other suitable metal, which shall have stamped thereon the words "Registered Chauffeur

No. ———, Manitoba Motor Vehicle Act," with the registration number and any date deemed necessary by the municipal commissioner inserted therein, which said badge shall thereafter and at all times be conspicuously worn by such chauffeur while operating a motor vehicle upon the public highways. The said certificate of registration shall further contain his name and address and the date of registration, which said date of registration shall be the day upon which the application is received at the office of the municipal commissioner. Said certificate shall remain in force for one year after the first day of the month following the date of such certificate, and all the preceding provisions of this act relating to the expiration, cancellation and notice of expiration of certificates of registration and the fees for such certificate and renewals in the registration of motor vehicles shall apply to the registration of chauffeurs.

§ 19. [*Transfer of Badge or Use of False Badge*].—No chauffeur having registered as provided in the foregoing section, shall voluntarily permit any other person to use his badge or certificate, nor shall any person while operating a motor vehicle use any badge or certificate belonging to any other person, or a fictitious badge or certificate.

§ 20. [*Operation of Vehicle Conditioned upon Compliance with Act*].—No person shall operate a motor vehicle upon a public highway after thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this act.

§ 21. [*Disposition of Fees*].—All fees paid to the municipal commissioner as provided in this act shall be applied toward the expense of registration blanks, books, badges and seals as herein provided to be furnished. Provided, that the surplus remaining from time to time shall be paid by the municipal commissioner to the treasurer of the Province, an form part of the consolidate revenue fund of the Province.

§ 22. [*Speed Generally—Regard to Traffic*].—No person shall operate a vehicle upon a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger or be likely to endanger the life or limb of any person or the safety of any property.

§ 23. [*Speed in Cities, etc., and at Crossways*].—No person shall, within the closely built-up business portions of any city, town or village, exceed a speed of one mile in six minutes, nor a speed of one mile in ten minutes when turning the corner of intersecting streets or crossroads, nor a speed of one mile in four minutes where any street, road or highway passes through the residential portions of any incorporated city, town or village, but nothing herein contained shall limit or restrict the operation or effect of the provisions of section 22 of this act.

§ 24. [*Driving in Race or on Wager*].—Subject to the provisions of this act, no person shall drive a motor vehicle upon any public street, highway, road, park, parkway or driveway in a race or on a bet or wager.

§ 25. [*Age of Operators*].—(1) No male person under sixteen years of age, and no female person under eighteen years of age, shall drive or operate a motor vehicle upon any public street, highway, road, park, parkway or driveway.

(2) [*Driving While Intoxicated*].—No intoxicated person shall drive or operate a motor vehicle in any such place.

§ 26. [*Devices to Prevent Use when Left Unattended*].—Every motor vehicle shall be provided with a plug or key or other device to prevent such vehicles being set in motion, and no such vehicle shall be permitted to stand or remain unattended in any shed, highway, park or other public place without first locking or making it fast.

§ 27. [*Mufflers—Cutting Out Forbidden*].—Every motor vehicle using gasoline as a motive power shall use what is called the "Muffler" and the same shall not be disconnected or cut out while the machine is in operation within the thickly settled or business portion of any city or town.

§ 28. [*Speed at Bridges, Curves, Hills, etc.*].—Upon approaching a bridge, dam, curve, culvert or steep descent and also in traversing such bridge, dam, curve, culvert or descent a person operating a motor vehicle shall have it under control and operate it at a rate of speed not exceeding one mile in ten minutes and upon approaching a crossing or intersecting highways at a speed not greater than is reasonable and proper, having regard to the traffic then on highways and the safety of the public.

(a) [*Stopping to Permit Passage of Horse on Graded Way*].—In rural municipalities any person operating a motor vehicle, upon approaching a graded portion of any highway where, on account of the manner of the construction of such grade, it is impossible or dangerous for such motor vehicle and a horse, or horses, being driven in an opposite direction to pass one another, shall, before entering upon or along such graded portion of the highway, stop said motor vehicle, and if any horse or horses, being driven as aforesaid, is or are on such graded portion, or is or are about to enter thereon, to cause the said motor vehicle to remain stationary and allow the said horse or horses to pass first along said grade, and past the said motor vehicle, before such motor vehicle proceeds.

§ 29. [*Approaching Horses—Care—Speed*].—In rural municipalities, upon approaching a person walking in the roadway of a public highway, or a horse or horses, or other draft animals, being ridden or led or driven thereon, a person operating a motor vehicle shall, not

less than two hundred yards from such person, slow down to a speed not exceeding six miles an hour and take reasonable precaution to insure the safety of such person or animals and, in the case of horses or other draft animals, to prevent frightening same.

§ 30. [*Stopping on Signal from Driver of Horse—Rendering Assistance*].—A person operating a motor vehicle shall, at the request of or on signal by putting up the hand from a person apprehensive of danger, riding, leading or driving horse or horses or other draft animals in the same direction, guide such motor vehicle to the left of the travelled portion of the highway and bring such motor vehicle immediately to a stop and cause the motor of such vehicle to cease running so long as shall be necessary to prevent accident and insure the safety of others, and shall afterwards use reasonable caution in passing such horse or horses or other animals, and, if travelling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and it shall be the duty of any male driver of any motor vehicle and other male occupants thereof, over the age of fifteen years, while approaching or passing any horse or horses, or other draft animals, which appear badly frightened, or upon the request of the person in charge of and driving such horse or other draft animals, to give such personal assistance as shall be reasonable to insure the safety of all persons concerned and to prevent accident.

(a) [*Stopping Noise*].—During the time any motor vehicle is stopped or slowed up, pursuant to the provisions of this section, the person operating such motor vehicle, and any of the occupants thereof, shall refrain from making any noise by means of any gong, bell, horn, whistle, or otherwise howsoever.

(b) [*Requirements Applicable to Rural Municipalities Only*].—The provisions of this section shall only apply to rural municipalities.

§ 31. [*Keeping to Right on Passing Horse—Crossways*].—Whenever a person operating a motor vehicle shall meet on a highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, and there being no occasion to stop as above provided, the person operating such motor vehicle shall seasonably turn the same to the right of the centre of the travelled portion of the highway; while the person approaching shall likewise turn from the centre of the travelled portion of the highway so as to pass the motor vehicle on its left side. And any person so operating any motor vehicle shall, at the intersection of a public highway, keep to the right of the intersection when turning to the left.

§ 32. [*Overtaking Horse—Rendering Assistance*].—If a vehicle drawn by a horse or horses or other draft animals or a motor vehicle be overtaken by any motor vehicle, and the person in charge of such motor vehicle expresses a desire to pass, it shall be the duty of the

driver of any such vehicle so overtaken as aforesaid as soon as practicable to turn to the right of the centre of the travelled portion of the highway, and give the person so making the request an opportunity to pass, but in passing the person in charge of such motor vehicle and the other male occupants thereof over the age of fifteen years shall give such assistance as they are able to the occupant or occupants of the vehicle, if assistance be asked, and in thus passing the driver of the motor vehicle shall use all due care to avoid accidents.

§ 33. [*Stopping in Case of Accident—Assistance—Disclosing Identity*].—In case of accident to person or property, due to the operation of any motor vehicle, the person operating such vehicle shall stop and give such assistance as can be given, and shall, upon request of the person injured or any other person, give such person the name and address, and if not the owner, the name and address of the owner of such motor vehicle, together with the registered number thereof.

§ 34. [*Races—Setting Aside Highway*].—Municipal authorities may by resolution of the council, notwithstanding the provisions of this act, set aside for a given time a specified public highway for speed tests or races, to be conducted under proper restrictions specified in such resolution for the safety of the public.

§ 35. [*Municipal Regulations Prohibited*].—Subject to the provisions of this act, all municipal authorities, including cities, shall have no power to pass, enforce or maintain any by-law requiring of any owner or proprietor of a motor vehicle any license or permit to use the public highways, or excluding or prohibiting any motor vehicle whose owner has complied with the provisions of this act, from the free use of such highways, except upon such driveway, speedway or road as has been or may be expressly set apart by by-law for the exclusive use of horses and light carriages or that shall in any way affect the registration or numbering of motor vehicles or allowing a greater rate of speed than is herein specified at which such vehicles may be operated, or forbidding the use of the public highways, contrary to or inconsistent with the provisions of this act; and all such by-laws now in force are hereby declared to be of no validity or effect.

§ 36. [*Speed in Park or Parkway*].—Municipal authorities may, notwithstanding the provisions of this act, make, enforce and maintain such reasonable by-laws, rules or regulations concerning the speed at which motor vehicles may be operated in any park or parkway within a city, town or incorporated village, but in no case to permit a greater speed than is provided in this act, and, as a condition thereto, such municipal authorities must, by signs at each entrance of such park and along said parkway, conspicuously indicate the rate of speed permitted or required, and may exclude motor vehicles from any cemetery or grounds used for the burial of the dead.

§ 37. [*Suspension and Revocation of License*].—The municipal commissioner may at any time suspend or revoke any registration certificate on account of any misconduct or infraction of the provisions of this act by any owner or driver of a motor vehicle to whom such certificate has been issued.

§ 38. [*Burden of Proof in Actions for Negligence*].—When any loss or damage is incurred or sustained by any person by a motor vehicle, the onus of proof that such loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle shall be upon the owner or driver of the motor vehicle.

§ 39. [*Civil Actions not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from the negligence of the owner or operator or his agent, employee or servant of any motor vehicle or resulting from the negligent use of the highway by them or any of them.

§ 40. [*Distribution and Posting of Copies of Act*].—The municipal commissioner shall furnish all justices of the peace, police magistrates and clerks of municipalities with copies of this act, and the main features or provisions hereof shall be posted in conspicuous places throughout the province by means of printed poster notices, to be prepared by the municipal commissioner.

§ 41. [*Penalties for Violation of Act—Second Offense*].—Any person violating any of the provisions of this act shall, upon summary conviction before a police magistrate or justice of the peace for the first offense be liable to a fine not exceeding \$25, together with the costs of prosecution, and for the second or any subsequent offense to a fine not exceeding \$50 together with costs of prosecution, and in default of payment the motor vehicle may be impounded until payment of such fine.

§ 42. [*Record of Convictions—Cancellation of License*].—Every police magistrate or justice of the peace who shall make a conviction under the preceding section shall certify the same to the municipal commissioner, setting out the name of the person, the motor vehicle with or with respect to which the offense was committed, the nature of the offense, and the time when it was committed, and, if three such convictions are made against the same person within a calendar year, the certificate of registration of the motor vehicle owned or driven by such person at the time when the offense for which such third conviction was made was committed, may be cancelled.

§ 43. [*Arrest of Offenders Without Warrant*].—Every peace officer as defined by the Criminal Code who on reasonable and probable grounds believes that an offense against any of the provisions of this act has been committed, whether it has been committed or not, and

who, on reasonable and probable grounds, believes that any person has committed that offense, is justified in arresting such person without warrant, whether such person is guilty or not.

§ 44. [*Assisting Officer to Make Arrest*].—Every one called to assist a peace officer in the arrest of a person suspected of having committed such offense as last aforesaid is justified in assisting, if he knows that the person calling on him for assistance is a peace officer, and does not know that there are no reasonable grounds for the suspicion.

§ 45. [*Detention of Vehicle by Officer Arresting—Release on Security*].—Such peace officer or other person making an arrest without warrant as above provided may detain any motor vehicle in respect to which such offense has been committed until the final disposition of any proceedings which may be taken under the provisions of this act. Provided, that such motor vehicle may be released on security not exceeding one hundred dollars being given to the satisfaction of such peace officer or of a justice of the peace or police magistrate, as the case may be.

§ 46. [*Persons Arrested to Be Tried Promptly*].—Such peace officer or other person making an arrest shall with reasonable diligence take any person so arrested without warrant before a justice of the peace or police magistrate for a warrant or trial.

§ 47. [*Disposition of Fines Recovered*].—All fines and penalties imposed by this act shall enure to the benefit of the municipalities within which convictions shall be made, in all cases in which prosecutions shall have been instituted by or under the municipal authority, or by officers appointed by them, and in all other cases, such fines and penalties shall enure to the benefit of His Majesty in the right of the Province, and shall from time to time be transmitted by the convicting magistrate or justice of the peace to the Provincial Treasurer.

§ 48. [*Nonresidents—Registration*].—No person not a resident of and actually domiciled in the Province shall operate, or permit to be operated, any motor vehicle, not registered under this act, upon any of the highways in the Province for any greater period than thirty days, to be computed from the time such motor vehicle is brought into the Province.

§ 49. [*Offense Committed Inadvertently—Discretion of Court to Dismiss*].—Upon any person being charged with an offense under any of the provisions of this act, if the justice of the peace or magistrate trying the case be of opinion that the offense was committed wholly by accident or misadventure and without negligence, and could not by the exercise of reasonable care or precaution have been avoided, such justice of the peace or magistrate may dismiss the complaint.

NEW BRUNSWICK.

ACT OF APRIL 8, 1905.

- § 1. Mode of Citation of Act.
Construction of Terms Used.
"Motor Vehicle"—"Public Highway"—"Chauffeur"—"Secretary."
2. Registration—Form of Application—Fee.
Record of Registration and Assignment of Number.
Certificate of Registration—Seal for Display of Number.
Previously Registered Vehicles—Return of Seal by Vendor of Vehicle.
Display of Number—Letters of Province.
Registration and Display of Number by Dealers and Manufacturers.
Display of Another than Registered Number.
Use of Vehicle Conditioned upon Compliance Herewith.
Nonresidents Operating Vehicles Registered Elsewhere.
3. Speed—Regard to Traffic—Closely Built up Sections.
Speed at Bridges, Curves, Hills and Crossways.
Approaching Pedestrians and Drivers of Horses—Warning—Care.
Stopping on Signal from Driver of Horse—Stopping Motor.
Stopping in Case of Accident—Disclosing Identity.
4. Keeping to Left on Meeting and Right on Passing Other Vehicles
—Rule at Crossways.
Equipment—Brakes—Signaling Device—Lights—Number to Be Shown.
Civil Actions Not Abridged.
5. Chauffeurs—Registration—Fee.
Record of Registration—Assignment of Number.
Badge—Form—Display.
Transfer of Badge—Fictitious Badge.
Operation of Car Conditioned upon Compliance Herewith.
6. Penalties—Second and Third Offenses—Cancellation of License.
Penalties—Several Offenses on Same Day.
Trial of Offenders—Letting to Bail.
7. Procedure for Recovery of Penalties—Disposition of.
8. Expenses of Enforcing Act.

An Act in relation to the registration and identification of motor vehicles, and the use of the public highways by such vehicles.

[Passed April 8, 1905.]

Be it enacted by the Lieutenant-Governor and Legislative Assembly as follows:

§ 1. (1) [*Mode of Citation of Act*].—This act may be cited as "The Motor Vehicle Law."

(2) [*Construction of Terms Used*].—The words and phrases used in this act shall for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows:

(a) [*"Motor Vehicle"*].—"Motor Vehicle" shall include all vehicles propelled by any power other than muscular power, except such vehicles as run only on rails or tracks, or on such portion or portions of the highway which may be specially reserved therefor under the provisions of the Act 4 Edward VII, Chapter 87, motor bicycles and tri-cycles, and steam road rollers.

(b) [*"Public Highway"*].—"Public Highway" shall include any highway, public street, alley, park or public place.

(c) [*"Chauffeur"*].—"Chauffeur" shall mean any person operating a motor vehicle, as mechanic, employee, or for hire.

(d) [*"Secretary"*].—"Secretary" shall mean the secretary of the department of public works.

§ 2. (1) [*Registration—Form of Application—Fee*].—Every person now owning or hereafter acquiring a motor vehicle shall for every such vehicle owned by him, file in the office of the secretary a statement of his name and address, with a brief description of the vehicle to be registered, including the name of the maker, factory number, style of vehicle, and motor power, on a blank to be prepared and furnished by such secretary for that purpose, the fee for filing which shall be five dollars.

(2) [*Record of Registration and Assignment of Number*].—The secretary shall thereupon file such statement in his office, register such motor vehicle in book or index to be kept for that purpose, and assign it a distinctive number.

(3) [*Certificate of Registration—Seal for Display of Number*].—The secretary shall forthwith, on such registration and without further fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form, approximately three inches in diameter, and have stamped thereon the words "Registered motor vehicle No. _____ New Brunswick Motor Vehicle Law," with the registration number inserted therein, which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

(4) [*Previously Registered Vehicles—Return of Seal by Vendor of Vehicle*].—If the vehicle has been previously registered, the certificate issued thereon shall be returned to the secretary, and in lieu thereof

the secretary shall issue to such owner a registration seal containing the number of such previous registration, upon payment of a fee of one dollar. Upon the sale of a motor vehicle, the vendor, except a manufacturer or dealer, shall within ten days return to the secretary the registration seal affixed to such vehicle.

(5) [*Display of Number—Letters of Province*].—Every motor vehicle shall also at all times have the number assigned to it by the secretary displayed on the back of such vehicle, in such manner as to be plainly visible, the number to be in Arabic numerals, black or [on] white ground, each not less than three inches in height and each stroke to be of a width not less than half an inch; and also as a part of such number, the initial letters of the province in black or [on] white ground, such letters to be not less than one inch in height.

(6) [*Registration and Display of Number by Dealers and Manufacturers*].—A manufacturer of or dealer in motor vehicles shall register one vehicle of each style or type manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire, on payment of an additional fee of one dollar for each duplicate seal. If the registration seal and corresponding number shall thereafter be affixed and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with sub-section 1, 3, 5 and 8 of this section until such vehicle shall be sold or let for hire. Nothing in this subsection shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

(7) [*Display of Another Than Registered Number*].—No motor vehicle shall be used or operated upon a public highway which shall display thereon a registration seal or number belonging to any other vehicle or a fictitious registration seal or number.

(8) [*Use of Vehicle Conditioned upon Compliance Herewith*].—No motor vehicle shall be used or operated upon a public highway unless the owner shall have complied in all respects with this section, except that any person purchasing a motor vehicle from a manufacturer, dealer or other person after this act goes into force shall be allowed to operate such motor vehicle upon the public highways for a period of five days after the purchase and delivery thereof, provided that during such period such motor vehicle shall bear the registration number and seal of the previous owner, under which it was operated or might have been operated by him.

(9) [*Nonresidents Operating Vehicles Registered Elsewhere*].—The provisions of this section shall not apply to motor vehicles owned by nonresidents of this province, provided the owners thereof have complied with any law requiring the registration of owners of motor

offence, and not exceeding two hundred dollars or imprisonment not exceeding sixty days or both for a third or subsequent offence.

(2) [*Second and Third Offences—Cancellation of License*].—When any chauffeur shall have been convicted of a third, or any subsequent offence, against the provisions of this act, the convicting justice shall forthwith certify to the Secretary the fact of such third or subsequent conviction having been made, and the Secretary may thereupon order that the registration of such chauffeur so convicted, as aforesaid, be cancelled, and that no application for a new registration shall be received for such period as the Secretary may deem right, such period in no case to exceed one year from the date of such cancellation.

(3) [*Penalties Generally—Several Offences on Same Day*].—The violation of any other provision of this act shall be punishable by a fine not exceeding twenty-five dollars or imprisonment not exceeding thirty days for a first offence; a fine not less than twenty-five dollars, nor more than fifty dollars or imprisonment for thirty days, or both, for a second offence; and a fine not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding sixty days or both, for a third or subsequent offence.

(3) [*Trial of Offenders—Letting to Bail*].—In case the person operating a motor vehicle shall be taken into custody because of a violation of any provision of this act, he shall be forthwith taken before a magistrate or justice of the peace in any city, town or village, and shall be entitled to an immediate hearing, and if such hearing cannot then be had, he shall be released from custody on giving his personal undertaking to appear in answer for such violation at such time and place as shall then be fixed by such magistrate or justice of the peace, secured by the deposit of a sum equal to the maximum fine for the offence with which he is charged, or in lieu thereof, by leaving the motor vehicle being operated by such person with a police officer, or constable or other person to be named by the magistrate or justice of the peace. In case security shall be deposited as in this section provided, it shall be returned to the person depositing the same forthwith on such person being admitted to bail under the provisions of the Nova Scotia Summary Convictions Act, and on the return of the receipt, or other voucher given at the time of such deposit. In case such undertaking with security or such deposit shall not be made, the proceedings shall take place as in the ordinary cases of arrest under the Nova Scotia Summary Convictions Act.

§ 7. [*Procedure for Recovery of Penalties—Disposition of Fines*].—Proceedings for the recovery of penalties under this act shall be taken and carried on under chapter 161, "Of Summary Convictions," Revised Statutes of Nova Scotia, 1900, and such proceedings may be taken by direction or by any person, and all fines and penalties recov-

operation thereon of a motor vehicle, the person operating such vehicle shall stop, and upon request of a person injured or any person present, give such person his name and address, and if not the owner, the name and address of such owner.

§ 4. (1) [*Keeping to Left on Meeting and Right on Passing Other Vehicles—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person so operating such motor vehicle shall seasonably turn the same to the left of the centre of such highway so as to pass without interference. Any such person so operating a motor vehicle shall on overtaking any such horse, draft animal or other vehicle, pass on the right side thereof, and the rider or driver of such horse, draft animal or other vehicle shall as soon as practicable, turn to the left, so as to allow free passage on the right. Any such person so operating a motor vehicle shall at the intersection of public highways keep to the left of the intersection of the centres of such highways, when turning to the left, and pass to the left of such intersection when turning to the right. Nothing in this section, however, shall be construed as limiting the meaning and effect of the provisions of section 3 of this act.

(2) [*Equipment—Brakes—Signaling Device—Lights—Number to Be Shown*].—Every motor vehicle while in use on a public highway shall be provided with good and efficient brakes, and also with a suitable bell, horn or other sufficient means of signal, and shall during the period from one hour after sunset to one hour before sunrise, display one or more lamps showing a white light or white lights, visible within a reasonable distance, in the direction towards which such vehicle is proceeding, showing the registered number of the vehicle in separate Arabic numerals not less than one inch in height and each stroke to be not less than one-quarter of an inch in width.

(3) [*Civil Actions Not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property, resulting from the negligent use of a public highway by any person operating a motor vehicle.

§ 5. (1) [*Chauffeurs—Registration—Fee*].—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the secretary on a blank to be supplied by such secretary, a statement which shall include the name and address and the trade name and motor power of the motor vehicle or vehicles he is able to operate and shall pay a registration fee of two dollars.

(2) [*Record of Registration—Assignment of Number*].—The secretary shall thereupon file such statement in his office, register such

chauffeur in a book or index to be kept for that purpose, and assign him a number.

(3) [*Badge—Form—Display*].—The secretary shall forthwith, upon such registration and without other fee, issue and deliver to such chauffeur a badge of aluminum or other suitable metal, which shall be oval in form and the greater diameter of which shall not be more than three inches, and such badge shall have stamped hereon the words "Registered Chauffeur No. ——— New Brunswick Motor Vehicle Law," with the registration number inserted therein; which badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways.

(4) [*Transfer of Badge—Fictitious Badge*].—No chauffeur having registered as hereinbefore provided shall voluntarily permit any other person to wear his badge nor shall any person while operating a motor vehicle wear any badge belonging to another person or a fictitious badge.

(5) [*Operation of Car Conditioned upon Compliance Herewith*].—No person shall operate a motor vehicle as a chauffeur upon the public highways unless such person shall have complied with the requirements of this section.

§ 6 (1) [*Penalties—Second and Third Offenses—Cancellation of License*].—The violation of any of the provisions of sub-section (5) of section 2, or of sub-section (7) of section 2, or of section 3 or section 5 of this act shall be deemed an offence under this act and the person guilty thereof shall be liable to a penalty not exceeding one hundred dollars for the first offense, and not less than fifty dollars nor more than one hundred dollars or imprisonment not exceeding thirty days or both for a second offense, and not less than one hundred dollars nor more than two hundred and fifty dollars or imprisonment not exceeding sixty days or both for a third or subsequent offense. When any chauffeur shall have been convicted of a third or any subsequent offense against the provisions of this act, the convincing justice shall forthwith certify to the secretary the fact of such third or subsequent conviction having been made, and the Chief Commissioner of Public Works may thereupon order that the registration of such chauffeur so convicted as aforesaid be cancelled, and that no application for a new registration shall be received for such period as the Chief Commissioner may deem right, such period in no case to exceed one year from the date of such cancellation.

(2) [*Penalties—Several Offenses on Same Day*].—The violation of any other provisions of this act shall be punishable by a fine not exceeding twenty-five dollars for a first offence; a fine not less than twenty-five dollars nor more than fifty dollars for a second offence;

and a fine not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding thirty days, or both, for a third or subsequent offence. Not more than one conviction shall be made or recorded against any person for each day that he may persist in violating any of the offences under this act, that are of a continuous character.

(3) [*Trial of Offenders—Letting to Bail*].—In case the person operating a motor vehicle shall be taken into custody because of a violation of any provision of this act he shall be forthwith taken before a magistrate or justice of the peace in any city, town or village, and shall be entitled to an immediate hearing; and if such hearing cannot then be had, he shall be released from custody on giving his personal undertaking to appear in answer for such violation at such time and place as shall then be fixed by such magistrate, or justice of the peace, secured by the deposit of a sum equal to the maximum fine for the offense with which he is charged, or in lieu thereof, by leaving the motor vehicle being operated by such person, with a police officer, or constable, or other person to be named by the magistrate or justice of the peace. In case security shall be deposited as in this section provided, it shall be returned to the person depositing the same forthwith on such person being admitted to bail under the provisions of the Summary Convictions Act, and on the return of the receipt or other voucher given at the time of such deposit. In case such undertaking with security or such deposit shall not be made, the proceedings shall take place as in ordinary cases of arrest under the Summary Convictions Act.

§ 7. [*Procedure for Recovery of Penalties—Disposition of*].—Proceedings for the recovery of penalties under this act shall be taken and carried on under Chapter 123 of the Consolidated Statutes 1903, relating to Summary Convictions, and such proceedings may be taken either by the direction of the secretary or by any other person, and all fines and penalties recovered shall be paid to the treasurer of the municipality, city, town or county in which the offence was committed.

§ 8. [*Expenses of Enforcing Act*].—The Lieutenant Governor in Council may pay to the secretary a reasonable remuneration for his services and to reimburse him for any expenses necessarily incurred in carrying out this act, in no case to exceed the net fees received.

NOVA SCOTIA.

ACT OF APRIL 25, 1907.

- § 1. Mode of Citation of Act.
Construction of Terms Used.
"Motor Vehicle"—"Public Highway"—"Chauffeur"—"Secretary."
2. Registration—Form of Application—Fee.
— Record of Registration and Assignment of Number.
Certificate of Registration—Seal for Display of Number.
Previously Registered Vehicles—Return of Seal by Vendor of Vehicle.
Display of Number—Letters of Province.
Registration and Display of Number by Dealer and Manufacturers.
Display of Another than Registered Number.
Use of Vehicle Conditioned Upon Compliance Herewith.
Nonresidents Operating Vehicles Registered Elsewhere.
3. Speed—Regard to Traffic—Closely Built up Sections.
Speed at Bridges, Hills, Curves, and Crossways.
Approaching Pedestrians and Drivers of Horses—Warning—Care.
Stopping on Signal from Driver of Horse—Stopping Motor.
Stopping in Case of Accident—Disclosing Identity.
4. Keeping to Left on Meeting and Right on Passing Other Vehicle—Rule at Crossways.
Equipment—Brakes—Signaling Device—Lights—Number to Be Shown.
Civil Actions Not Abridged.
5. Chauffeurs—Registration—Fee.
Record of Registration—Assignment of Number.
Badge—Form—Display.
Transfer of Badge—Fictitious Badge.
Operation of Car Conditioned upon Compliance Herewith.
6. Penalties Respecting Display of Number, Speed, etc.
Second and Third Offences—Cancellation of License.
Penalties Generally—Several Offenses on Same Day.
Trial of Offenders—Letting to Bail.
7. Procedure for Recovery of Penalties—Disposition of Fines.
8. Use of Vehicles in Point Pleasant Park, Halifax.
9. Nullification of Ordinances upon This Subject.

ACT OF APRIL 16, 1908, c. 53.

- § 1. Authority of Municipalities to Exclude Vehicles from Highway.
 2. Penalties for Violation of Regulations.
 3. Initiation and Duration of Regulations.
 4. New Section Added to Motor Vehicle Act.
 Owner Required to Prove Freedom from Negligence Causing Injury.
 5. Penalties of Motor Vehicle Act Extended to Owner.

ACT OF APRIL 16, 1908, c. 54.

- § 1. Motor Cycles—Registration—Fee.
 2. Display of Number and Letters.

An Act in relation to the registration and identification of motor vehicles and the use of the public highways by such vehicles.

[7 Edw. VII., c. 44, passed April 25, 1907.]

Be it enacted by the Governor, Council, and Assembly, as follows:

§ 1. (1) [*Mode of Citation of Act*].—This act may be cited as "The Motor Vehicle Act."

(2) [*Construction of Terms Used*].—The words and phrases used in this act shall, unless the context otherwise requires, be construed as follows:

(a) [*"Motor Vehicle"*].—"Motor vehicle" includes all vehicles propelled by any power other than muscular power, except such vehicles as run only on rails or tracks, or on such portion or portions of the highway which may be specially reserved therefor, under the provisions of any act of the province of Nova Scotia, and steam road rollers;

(b) [*"Public Highway"*].—"Public highway" includes any highway, public street, alley, park or public place;

(c) [*"Chauffeur"*].—"Chauffeur" means any person operating a motor vehicle, as mechanic, employee, or for hire;

(d) [*"Secretary"*].—"Secretary" means the Provincial Secretary.

§ 2. (1) [*Registration—Form of Application—Fee*].—Every person now owning or hereafter acquiring a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary, a statement of his name and address, with a brief description of the vehicle to be registered, including the name of the maker, factory number, style of vehicle, and motor power, on a blank to be prepared and furnished by such secretary for that purpose, the fee for filing which shall be five dollars.

(2) [*Record of Registration and Assignment of Number*].—The Secretary shall thereupon file such statement in his office, register

such motor vehicle in a book or index to be kept for that purpose, and assign it a distinctive number.

(3) [*Certificate of Registration—Seal for Display of Number*].—The Secretary shall forthwith, on such registration, and without further fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form, approximately three inches in diameter, and have stamped thereon the words "Registered motor vehicle No. —, Nova Scotia Motor Vehicle Law," with the registration number inserted therein, which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

(4) [*Previously Registered Vehicles—Return of Seal by Vendor of Vehicle*].—If the vehicle has been previously registered, the certificate issued thereon shall be returned to the Secretary, and in lieu thereof the Secretary shall issue to such owner a registration seal containing the number of such previous registration, upon payment of a fee of one dollar. Upon the sale of a motor vehicle, the vendor, except a manufacturer or dealer, shall within ten days return to the Secretary the registration seal affixed to such vehicle.

(5) [*Display of Number—Letters of Province*].—Every motor vehicle shall also at all times have the number assigned to it by the Secretary displayed on the back of such vehicle in such manner as to be plainly visible, the number to be in Arabic numerals, black on white ground, each not less than three inches in height and each stroke to be of a width not less than half an inch, and also as a part of such number the initial letters of the province in black on white ground, such letters to be not less than one inch in height.

(6) [*Registration and Display of Number by Dealer and Manufacturers*].—A manufacturer of or dealer in motor vehicles shall register one vehicle of each style or type manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire, on payment of an additional fee of one dollar for each duplicate seal. If the registration seal and corresponding number shall thereafter be affixed and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with sub-sections 1, 3, 5 and 8 of this section, until such vehicle shall be sold or let for hire. Nothing in this sub-section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

(7) [*Display of Another than Registered Number*].—No motor vehicle shall be used or operated upon a public highway which

shall display thereon a registration seal or number belonging to any other vehicle, or a fictitious registration seal or number.

(8) [*Use of Vehicle Conditioned upon Compliance Herewith*].—No motor vehicle shall be used or operated upon a public highway unless the owner shall have complied in all respects with the section, except that any person purchasing a motor vehicle from a manufacturer, dealer or other person after this act goes into force, shall be allowed to operate such motor vehicle upon the public highway for a period of five days after the purchase and delivery thereof, provided, that during such period such motor vehicles shall bear the registration number and seal of the previous owner under which it was operated, or might have been operated by him.

(9) [*Nonresidents Operating Vehicles Registered Elsewhere*].—The provisions of this section shall not apply to motor vehicles owned by non-residents of this province, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state or province of their residence, and the registration number, showing the initial of such state or province, shall be affixed to such vehicle, substantially as in this section provided.

§ 3. (1) [*Speed—Regard to Traffic—Closely Built up Sections*].—No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or the safety of any property, or in any event, on any public highway in any city, town or village, where the contiguous territory thereto is closely built up, at a greater rate than one mile in eight minutes, or elsewhere, in a city, town or village, at a greater rate than one mile in five minutes, or elsewhere, outside of a city, town or village, at a greater rate than one mile in four minutes, subject, however, to the other provisions of this act.

(2) [*Speed at Bridges, Hills, Curves and Crossways*].—Upon approaching a bridge over which it is forbidden to drive any vehicle drawn by a horse or horses faster than a walk, sharp curve or steep descent, and also in traversing such bridge, curve or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed not exceeding one mile in fifteen minutes, and in approaching a crossing of intersecting highways, at a speed not greater than is reasonable and proper, having regard to the traffic of such highway and the safety of the public.

(3) [*Approaching Pedestrians and Drivers of Horses—Warning—Care*].—On approaching a person walking in the roadway of a public highway, or a horse or horses, or other draft animals being ridden, led or driven thereon, a person operating a motor vehicle shall give

reasonable warning of its approach, and use every reasonable precaution to insure the safety of such person or animal, and in case of horses or other draft animals, to prevent frightening the same.

(4) [*Stopping on Signal from Driver of Horse—Stopping Motor*].—A person operating a motor vehicle shall, at request or on signal, by putting up the hand, from a person riding, leading or driving a horse or horses, or other draft animals, bring such motor vehicle to a stop; and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction use reasonable caution in thereafter passing such horse or animal; provided, that in case such horse or animal appears badly frightened, or the person operating such motor vehicle is requested so to do, such person shall cause the motor of such vehicle to cease running so long as may be reasonably necessary to prevent accident and insure the safety of others.

(5) [*Stopping in Case of Accident—Disclosing Identity*].—In case of accident to a person or property on a public highway, due to the operation thereon of a motor vehicle, the person operating such vehicle shall stop, and upon the request of a person injured, or any person present, give such person his name and address, and, if not the owner the name and address of such owner.

§ 4. (1) [*Keeping to Left on Meeting and Right on Passing Other Vehicles—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person so operating such motor vehicle shall seasonably turn the same to the left of the centre of such highway, so as to pass without interference. Any such person so operating a motor vehicle shall, on overtaking any such horse, draft animal, or other vehicle, pass on the right side thereof, and the rider or driver of such horse, draft animal, or other vehicle shall, as soon as practicable, turn to the left, so as to allow free passage on the right. Any such person so operating a motor vehicle shall, at the intersection of public highways, keep to the left of the intersection of the centres of such highways, when turning to the left, and pass to the left of such intersection when turning to the right. Nothing in this section, however, shall be construed as limiting the meaning and effect of the provisions of section 3 of this act.

(2) [*Equipment—Brakes—Signaling Device—Lights—Number to Be Shown*].—Every motor vehicle, while in use on a public highway, shall be provided with good and efficient brakes, and also with a suitable bell, horn or other sufficient means of signal, and shall, during the period from one hour after sunset to one hour before sunrise, display one or more lamps, showing a white light or white lights, visible

within a reasonable distance in the direction towards which such vehicle is proceeding, showing the registered number of the vehicle, in separate Arabic numerals, not less than one inch in height, and each stroke to be not less than one-quarter of an inch in width.

(3) [*Civil Actions Not Abridged*].—Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property, resulting from the negligent use of a public highway by any person operating a motor vehicle.

§ 5. (1) [*Chauffeurs—Registration—Fee*].—Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the Secretary, on a blank to be supplied by such Secretary, a statement, which shall include the name and address and the trade name and motor power of the motor vehicle or vehicles he is about to operate, and shall pay a registration fee of two dollars.

(2) [*Record of Registration—Assignment of Numbers*].—The Secretary shall thereupon file such statement in his office, register such chauffeur in a book or index to be kept for that purpose, and assign him a number.

(3) [*Badge—Form—Display*].—The Secretary shall forthwith, upon such registration, and without other fee, issue and deliver to such chauffeur a badge of aluminum or other suitable metal, which shall be oval in form, and the greater diameter of which shall not be more than three inches, and such badge shall have stamped thereon the words "Registered Chauffeur, No. ———, Nova Scotia Motor Vehicle Law," with the registration number inserted therein, which badge shall thereafter be worn by such chauffeur, pinned upon his clothing, in a conspicuous place, at all times while he is operating a motor vehicle upon the public highways.

(4) [*Transfer of Badge—Fictitious Badge*].—No chauffeur having registered as hereinbefore provided shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle wear any badge belonging to another person, or a fictitious badge.

(6) [*Operation of Car Conditioned upon Compliance Herewith*].—No person shall operate a motor vehicle as a chauffeur upon the public highways unless such person shall have complied with the requirements of this section.

§ 6. (1) [*Penalties Respecting Display of Number, Speed, etc.*].—The violation of any of the provisions of sub-section (5) of section 2, or of sub-section (7) of section 2, or of section 3 or section 5 of this act shall be deemed an offense under this act, and the person guilty thereof shall be liable to a penalty not exceeding fifty dollars for the first offense, and not exceeding one hundred dollars for a second

offence, and not exceeding two hundred dollars or imprisonment not exceeding sixty days or both for a third or subsequent offence.

(2) [*Second and Third Offences—Cancellation of License*].—When any chauffeur shall have been convicted of a third, or any subsequent offence, against the provisions of this act, the convicting justice shall forthwith certify to the Secretary the fact of such third or subsequent conviction having been made, and the Secretary may thereupon order that the registration of such chauffeur so convicted, as aforesaid, be cancelled, and that no application for a new registration shall be received for such period as the Secretary may deem right, such period in no case to exceed one year from the date of such cancellation.

(3) [*Penalties Generally—Several Offences on Same Day*].—The violation of any other provision of this act shall be punishable by a fine not exceeding twenty-five dollars or imprisonment not exceeding thirty days for a first offence; a fine not less than twenty-five dollars, nor more than fifty dollars or imprisonment for thirty days, or both, for a second offence; and a fine not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding sixty days or both, for a third or subsequent offence.

(3) [*Trial of Offenders—Letting to Bail*].—In case the person operating a motor vehicle shall be taken into custody because of a violation of any provision of this act, he shall be forthwith taken before a magistrate or justice of the peace in any city, town or village, and shall be entitled to an immediate hearing, and if such hearing cannot then be had, he shall be released from custody on giving his personal undertaking to appear in answer for such violation at such time and place as shall then be fixed by such magistrate or justice of the peace, secured by the deposit of a sum equal to the maximum fine for the offence with which he is charged, or in lieu thereof, by leaving the motor vehicle being operated by such person with a police officer, or constable or other person to be named by the magistrate or justice of the peace. In case security shall be deposited as in this section provided, it shall be returned to the person depositing the same forthwith on such person being admitted to bail under the provisions of the Nova Scotia Summary Convictions Act, and on the return of the receipt, or other voucher given at the time of such deposit. In case such undertaking with security or such deposit shall not be made, the proceedings shall take place as in the ordinary cases of arrest under the Nova Scotia Summary Convictions Act.

§ 7. [*Procedure for Recovery of Penalties—Disposition of Fines*].—Proceedings for the recovery of penalties under this act shall be taken and carried on under chapter 161, "Of Summary Convictions," Revised Statutes of Nova Scotia, 1900, and such proceedings may be taken by direction or by any person, and all fines and penalties recov-

ered shall be paid to the treasurer of municipality, city, town or county in which the offence was committed.

§ 8. [*Use of Vehicles in Point Pleasant Park, Halifax*].—No automobile shall be used on any roadway or path in Point Pleasant Park, in the city of Halifax.

§ 9. [*Nullification of Ordinances upon This Subject*].—All by-laws and ordinances of any city, town or municipality in relation to the regulation, registration or identification of motor vehicles, or to the use of the public highways by such vehicles or to the subject matter of this act are hereby repealed and are declared to be inoperative.

An Act to amend Chapter 44, Acts of 1907, "The Motor Vehicle Act."

[8 Edw. VII., c. 53, passed April 16, 1908.]

Be it enacted by the Governor, Council, and Assembly as follows:

§ 1. [*Authority of Municipalities to Exclude Vehicles from Highways*].—It shall be lawful for every city, town or municipality in the Province of Nova Scotia to make regulations prohibiting the use and operation on certain days of each week of motor vehicles upon any of the public highways of such city, town, or municipality, and providing penalties for any violation of said regulations.

§ 2. [*Penalties for Violation of Regulations*].—The said penalties shall not be greater than the penalties mentioned in Section 6 of "The Motor Vehicle Act."

§ 3. [*Initiation and Duration of Regulations*].—The said regulations may be approved or modified and approved by the Governor-in-Council, and upon being so approved or modified and approved, shall come into force and be and remain in force within such city, town or municipality for the period of one year from the date of such approval.

§ 4. [*New Section Added to Motor Vehicle Act*].—Chapter 44, Acts of 1907, is hereby amended by adding thereto the following as section 10:

"§ 10. [*Owner Required to Prove Freedom from Negligence Causing Injury*].—Where any injury, loss or damage is incurred or sustained by any person through the frightening of a horse or horses, or through collision or otherwise, by reason of the presence of a motor vehicle upon any public highway within the Province, the person sustaining such injury, loss, or damage shall be entitled to recover the amount thereof, from either the owner or person operating such motor vehicle, in any court of competent jurisdiction, unless such owner or person operating shall establish that such injury, loss or damage was not caused or contributed to by any negligence or wrong-

ful act of either the said owner or the person operating such motor vehicle."

§ 5. [*Penalties of Motor Vehicle Act Extended to Owners*].—Sub-section (2) of section 6 of Chapter 44 of the Acts of 1907, is hereby amended by inserting the words "owner or" between the words "any" and "chauffeur" in the first line thereof.

Also by inserting the words "or any Act in amendment hereof" between the words "Act" and "the" in the third line thereof.

Also by inserting the words "of any motor vehicle by or on behalf or such owner, or" between the words "registration" and "of" in the sixth line thereof.

An Act to amend Chapter 44, Acts of 1907, entitled "The Motor Vehicle Act."

[8 Edw. VII., c. 54, passed April 16, 1908.]

Be it enacted by the Governor, Council, and Assembly, as follows:

§ 1. [*Motor Cycles—Registration—Fee*].—Sub-section 1 of Section 2 of Chapter 44 of the Acts of 1907, is hereby amended by adding thereto the following words:—"In the case of motor cycles the fee for filing said statement shall be two dollars and fifty cents."

§ 2. [*Display of Number and Letters*].—Sub-section 5 of said section 2 of said chapter is hereby amended by adding thereto the following words:—"In the case of motor cycles it shall be a compliance with this section if such number and initial letters are displayed on both sides thereof."

ONTARIO.

MOTOR VEHICLES ACT.

§ 1a. Mode of Citation of Act.

Definition of "Motor Vehicle."

2. Registration—Fee—Record—Renewals and Transfers.

2a. Chauffeur—License.

Issuance of License.

Production of License upon Demand.

3. Display of Number on Vehicle.

Other Numbers Not to Be Exposed.

4. Number to Be Kept Visible.

5. Equipment—Signaling Device—Lights—Number to Be Shown.

Motor Cycles—Display of Number.

Illumination of Number at Back of Vehicle.

Search Lights Forbidden.

- § 6. Speed—Speedways.
- 7. Reckless, Dangerous, or Negligent Driving—Condition of Highway.
- 8. Driving in Race or on Wager.
- 8a. Age of Drivers.
- 9. Intoxicated Person Not to Drive.
- 9a. Passing Street Cars—Speed.
- 10. Approaching Horse Drawn Vehicle—Care—Speed—Stopping—Assistance.
- 10a. Encountering Funeral Procession.
- 11. Returning in Case of Accident—Disclosing Identity.
- 12. R. S. C., c. 236, Made Applicable to Motor Vehicles.
- 13. Owner Responsible for Violations of Act.
- 14. Devices to Prevent Use When Left Unattended.
- 15. Municipal Regulations Nullified.
- 16. Revocation of License or Permit.
- 17. Provincial Secretary to Furnish Copies of Act and Lists of Permits.
- 18. Burden of Proof in Action for Injury.
- 19. Penalties—Second and Third Offenses.
 - Proof of Prior Conviction.
 - Convictions Cumulative.
- 19a. Endorsement and Revocation of Chauffeur's License.
 - Production of License for Endorsement.
- 19b. Certification of Convictions to Provincial Secretary—Cancellation of License.
 - Costs of Certificate.
- 19c. Third Offence—Impounding of Vehicle.
- 19d. Owner of Vehicle for Hire—Liability.
- 20. Penalties for Other Violations of Act.
- 21. Arrest Without Warrant—Probable Cause.
- 22. Assisting Police Officer—Probable Cause.
- 23. Arrest by Citizen—Driver Found Violating Act.
- 24. Detention of Vehicle by Person Making Arrest.
- 25. Disposition of Person Arrested Without Warrant.
- 26. Acts Repealed Hereby.
 - Matters Existing Under Repealed Acts.
 - Penalties Incurred Under Repealed Acts.
- 27. Commencement of Act.

REVISED STATUTES, c. 236.

- § 1. Keeping to Right on Meeting Vehicles.
 - Meeting Bicycles or Tricycles.

- 5 2. Vehicles Overtaken to Turn to Right.
 Vehicles Overtaking to Pass on Left.
 Bicycles and Tricycles Overtaken by Other Vehicles.
 Bicycles or Tricycles Overtaking Other Vehicles.
3. Driver Unable to Turn Out Is to Stop.
4. Penalty on Drivers, etc., too Drunk to Drive.
5. Racing, Swearing, etc., on Highways Forbidden.
6. Sleigh Horses to Have Bells.
7. Bicycles, etc., in Cities of over 100,000.
8. Notice to Be Posted at Bridges—Form of Notice.
9. Penalty on Persons Defacing Such Notice.
10. Fast Driving Over Bridges Forbidden.
11. Penalty for Contravening this Act.
12. Penalty to Be Enforced by Distress.
13. Penalty to Be Enforced by Imprisonment.
14. Civil Acts Not Barred.
15. Disposition of Fines Collected.

REGULATIONS APPROVED OF BY ORDER-IN-COUNCIL.

An Act to regulate the Speed and Operation of Motor Vehicles on Highways.

[6Edw. VII., c. 46, amended by 8 Edw. VII., c. 53, and 9 Edw. VII., c. 81.]

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

§ 1a. [*Mode of Citation of Act*].—This act may be cited as "The Motor Vehicles Act."

§ 1. [*Definition of Motor Vehicle*].—The term "motor vehicle" shall be construed to include automobiles, locomobiles, and all other vehicles propelled otherwise than by muscular power; provided, however, that it shall not include the cars of electric and steam railways, and other motor vehicles, running only upon rails or tracks. [3 Edw. VII., c. 27, s. 1, amended.]

§ 2. [*Registration—Fee—Record—Renewals and Transfers*].—The owner of every motor vehicle driven on streets or highways shall pay to the Provincial Secretary a registration fee for such motor vehicle. The Provincial Secretary shall issue for each motor vehicle so registered a numbered permit stating that such motor vehicle is registered in accordance with this section, and shall cause the name of such owner, his address and the number of his permit, to be entered in a book to be kept for such purpose. The Lieutenant-Governor-in-Council may make regulations regarding renewals and transfers of

such permits, the payments of fees therefor, the amount and time of payment of such fees, and the registration and operation of motor vehicles owned by manufacturers or dealers and not kept by such manufacturer or dealer for private use. [5 Edw. VII., c. 28, s. 2, amended.]

§ 2a. (1) [*Chauffeur—License*].—No person shall for hire, pay or gain drive a motor vehicle on a public street or highway unless he is licensed to do so, and no person shall employ anyone so to drive a motor vehicle who is not so licensed.

(2) [*Issuance of License*].—A license must be produced by any person by the Department of the Provincial Secretary to such person for such time and upon such terms and subject to such regulations and restrictions as the Lieutenant-Governor-in-Council may fix and determine. [18 Edw. VII., c. 53, s. 1.]

(3) [*Production of License upon Demand*].—A license must be produced by any person driving a motor vehicle for hire, pay or gain when demanded by a peace officer, as defined by the Criminal Code. [9 Edw. VII., c. 81, s. 2, ss. 3.]

§ 3. (1) [*Display of Number on Vehicle*].—Every motor vehicle while being driven on streets or highways shall have attached to and exposed on the front and back thereof, securely fixed in a conspicuous position, a number in plain figures not less than five inches in height, and issued by the Provincial Secretary, being the number of such permit. The number on the front of the said motor vehicle shall be as far forward and as high from the ground as may be necessary to render it distinctly visible. The number on the back shall be placed on the centre of the back of the body of such motor vehicle, so that the lower edge thereof shall not be lower than the body of said motor vehicle.

(2) [*Other Numbers Not to Be Exposed*].—No number other than that issued by the Provincial Secretary shall be exposed on any part of a motor vehicle.

§ 4. [*Number to Be Kept Visible*].—Such numbers shall be kept free from dirt and obstructions of any kind, and shall be affixed so that the same may be at all times plainly visible.

§ 5. (1) [*Equipment—Signaling Device—Lights—Number to Be Shown*].—Every motor vehicle shall be equipped with an alarm bell, gong, or horn, and the same shall be sounded whenever it shall be reasonably necessary to notify pedestrians or others of the approach of any such vehicle, and all such vehicles shall carry in the front thereof a lighted lamp in a conspicuous position, in such vehicle whenever in motion in any street or highway, at any time after dusk and before dawn, such lamp to display prominently upon the glass thereof the number of the permit of the motor vehicle in figures painted black

not less than two inches in height, such glass being ground or stippled with white paint. [5 Edw. VII., c. 23, s. 2, amended.]

[*Motor Cycles—Display of Number*].—Provided, however, that a motor bicycle shall have exposed on the back thereof a number in plain figures three inches in height issued by the Provincial Secretary, being the number of the permit of said motor bicycle, and shall from dusk to dawn carry in front thereof a lighted lamp with the said number of the permit painted black on the glass thereof not less than two inches in height, the said glass being ground or stippled with white paint.

(2) [*Illumination of Number at Back of Vehicle*].—Every motor vehicle shall carry a lamp so placed as to illuminate conspicuously at all times between dusk and dawn the number placed on the back of the body of the said vehicle.

(3) [*Search Lights Forbidden*].—No motor vehicle shall carry what is known to the trade as a search light.

§ 6. [*Speed—Speedways*].—No motor vehicle shall be run upon any public highway within any city, town or incorporated village at a greater rate of speed than ten miles an hour, or upon any public highway outside of any city, town or incorporated village at a greater speed than fifteen miles per hour. Provided that the council of any city, town, township or village may by by-law set apart any public street or highway or any part thereof on which motor vehicles may be driven at any higher rate of speed than herein limited for the purpose of testing the same, and may pass by-laws for regulating and governing the use of any such street or highways or part thereof for the purposes aforesaid. [3 Edw. VII., c. 27, s. 6.]

§ 7. [*Reckless, Dangerous, or Negligent Driving—Condition of Highway*].—Notwithstanding the provisions of section 6 hereof if any person drives a motor vehicle on a public highway recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the highway and to the amount of traffic which actually is at the time, or which might reasonably be expected to be on the highway, that person shall be guilty of an offence under this act.

§ 8. [*Driving in Race or on Wager*].—No person shall drive a motor vehicle upon any public street, highway, road, park, parkway or driveway in a race or on a bet or wager. [3 Edw. VII., c. 27, s. 7.]

§ 8. (a) [*Age of Drivers*].—No person under the age of seven-teen years shall drive a motor vehicle on a public street or highway. [8 Edw. VII., c. 53, s. 2.]

§ 9. [*Intoxicated Person Not to Drive*].—No intoxicated person shall drive a motor vehicle.

9a. [*Passing Street Cars—Speed*].—No motor vehicle shall pass or attempt to pass at a greater rate of speed than four miles an hour, a street car which is stationary for the purpose of taking on or discharging passengers. [9 Edw. VII., c. 81, s. 3.]

§ 10. [*Approaching Horse Drawn Vehicle—Care—Speed—Stopping—Assistance*].—Every person having control or charge of a motor vehicle shall, whenever upon any public street or highway and approaching any vehicle drawn by horse or horses, or any horse upon which any person is riding, operate, manage and control such motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses, and to insure the safety and protection of any person riding or driving the same, and outside the limits of any city or town shall not approach such horse or horses within one hundred yards, or pass the same going in the opposite direction at a greater speed than seven miles per hour, and if going in the same direction shall signal his desire to pass and give the rider or driver an opportunity to turn out so that he may be passed with safety, and if any such horse or horses going in the opposite direction appear frightened or if signalled so to do, he shall stop such motor vehicle, including the motor, and shall remain stationary so long as may be necessary to allow such rider or driver to pass or until directed by such rider or driver to proceed; and in case any animal ridden or driven by such rider or driver appears to be frightened the operator of such motor vehicle and any occupants of the same shall render assistance to such rider or driver in control of such animal or animals. [8 Edw. VII., c. 53, s. 3.]

§ 10a. [*Encountering Funeral Procession*].—The driver of a motor vehicle upon any public street or highway outside the limits of a city shall upon meeting or overtaking a funeral procession stop his motor vehicle and where practicable shall turn out into any intersecting street, road or lane until the funeral procession has passed. [8 Edw. VII. c. 53, s. 4.]

§ 11. [*Returning in Case of Accident—Disclosing Identity*].—In case an accident occurs to any person, whether on foot or horseback, or in a vehicle, or to any horse or vehicle in charge of any person, owing to the presence of any motor vehicle on any public highway, the person in charge of such motor vehicle shall return to the scene of the accident and give in writing to anyone sustaining loss or injury his name and address, and also the name and address of the owner of such motor vehicle, and the number of the permit of the said motor vehicle. [8 Edw. VII., c. 53, s. 5.]

§ 12. [*R. S. C., c. 235, Made Applicable to Motor Vehicles*].—The act to regulate travelling on public highways and bridges shall, *mutatis mutandis*, apply to motor vehicles. [5 Edw. VII., c. 28, s. 4.]

§ 13. [*Owner Responsible for Violations of Act*].—The owner of a motor vehicle for which a permit is issued under the provisions of this act shall be held responsible for any violation of the act or of any regulation provided by order of the Lieutenant-Governor in Council. [5 Edw. VII., c. 28, s. 5.]

§ 14. [*Devices to Prevent Use When Left Unattended*].—Every motor vehicle shall be provided with a lock, key, or other device to prevent such vehicle being set in motion, and no vehicle shall be permitted to stand or remain unattended in any shed, highway, park or other public place without first locking or making fast the vehicle. [5 Edw. VII., c. 28, s. 6.]

§ 15. [*Municipal Regulations Nullified*].—No provision in any by-law heretofore or hereafter passed under paragraph 7 of section 540 of The Municipal Act inconsistent with the provisions of this act shall affect or apply to motor vehicles. [3 Edw. VII., c. 27, s. 11.]

§ 16. [*Revocation of License or Permit*].—The provincial secretary may at any time suspend or revoke any permit or license on account of any misconduct or infraction of the provisions of this act or regulations provided thereunder by any owner or driver of a motor vehicle for which such permit is issued. [5 Edw. VII., c. 28, s. 7; 8 Edw. VII., c. 53, s. 6.]

§ 17. [*Provincial Secretary to Furnish Copies of Act and Lists of Permits*].—The provincial secretary shall furnish all clerks of the peace with copies of this act and regulations thereunder for distribution to the constables of all counties and municipalities, and he shall also provide copies of this act to the clerks of municipalities, to be posted up in conspicuous places, and shall furnish on the first days of May and September in each year to the clerks of all municipalities lists of all persons to whom permits are issued. [5 Edw. VII., c. 28, s. 8.]

§ 18. [*Burden of Proof in Action for Injury*].—When any loss or damage is incurred or sustained by any person by reason of a motor vehicle on a highway, the onus of proof that such loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle shall be upon the owner or driver of such motor vehicle. [8 Edw. VII., c. 53, s. 7.]

§ 19.—(1) [*Penalties—Second and Third Offenses*].—Any person violating any of the provisions of sections 3, 8 or 11 of this act shall upon summary conviction be liable for the first offense to a fine of \$50 or one week's imprisonment or both; for the second offense to a fine of \$100 or one month's imprisonment or both, and for the third offense or any subsequent offense to imprisonment not exceeding six months. [9 Edw. VII., c. 81, s. 4, ss. 1.]

(2) [*Proof of Prior Conviction*].—For the purpose of a second,

third or subsequent conviction under the provisions of this section or section 19a, a copy of the certificate of a prior conviction made by the convicting police magistrate or justice of the peace under the provisions of section 19b of this act, certified by the provincial secretary or assistant provincial secretary under the seal of the provincial secretary, shall be *prima facie* evidence of such prior conviction.

(3) [*Convictions Cumulative*].—On a charge for a second, third or subsequent offense under this section or section 19a a conviction need not be shown to be against the same section, and any conviction for an offense against sections 3, 8 or 11 shall be deemed to be a prior conviction. [9 Edw. VII., c. 81, s. 4, ss. 2 and 3.]

§ 19a.—(1) [*Endorsement and Revocation of Chauffeur's License*].—Any police magistrate or justice of the peace before whom a person is convicted of an offense under this act: (a) May, if the person convicted is required to hold a license under section 2a of the act and does not hold such license, declare him disqualified to hold such a license for such time as the said police magistrate or justice of the peace thinks fit and shall so report with the certificate of the conviction to the provincial secretary, and (b) If the person convicted holds a license issued under section 2a of this act, shall cause particulars of the conviction, if it be against the provisions of sections 2a, 3, 4, 7, 8, 9, 10, 10a and 11 of this act, to be endorsed upon such license, and in the event of such conviction being a third conviction, shall confiscate such license and the badge issued therewith and shall forward the same with the certificate of the conviction to the provincial secretary.

(2) [*Production of License for Endorsement*].—Any person so convicted if he holds a license issued under section 2a of this act shall produce the license within a reasonable time for the purpose of endorsement, and if he fails to do so shall be guilty of an offense under this act. [9 Edw. VII., c. 81, s. 5, ss. 2.]

§ 19b. [1] [*Certification of Convictions to Provincial Secretary—Cancellation of License*].—A police magistrate or justice of the peace who shall make a conviction under this act shall forthwith certify the same to the provincial secretary, setting out the name, address and description of the person so convicted, the number of the permit of the motor vehicle with which the offense was committed, the number of the section of the act contravened and the time the offense was committed, and if such offense was committed by a person licensed under section 2a hereof, the number of such license and the name, address and description of his employer, and if three such convictions against the provisions of sections 3, 8 or 11 are made against the same person the permit of the motor vehicle whereby the offense on which such third conviction was made was committed, or the

license issued under section 2a hereof, may be cancelled and the offender shall not be entitled to a permit or license under this act for a period of two years thereafter.

(2) [*Costs of Certificate*].—Such police magistrate or justice of the peace shall be entitled to add to the costs of the conviction the sum of twenty-five cents as and for his costs of the said certificate to the provincial secretary. [9 Edw. VII., c. 81, s. 6].

§ 19c. [*Third Offense—Impounding of Vehicle*].—In the event of a third or subsequent conviction as aforesaid, the motor vehicle driven by the person so convicted at the time of committing the act of which he was convicted, shall be seized, impounded and taken into the custody of the law for a period of three months. Thereupon such motor vehicle shall be stored where the convicting magistrate or justice of the peace shall determine, and all costs and charges for the care or storage thereof shall be a lien upon such motor vehicle, and the same may be enforced in the manner provided by section 51 of the mechanic's lien act, being chapter 153 of the revised statutes of Ontario. Provided, however, that if the person so convicted shall give sufficient assurance to such convicting police magistrate or justice of the peace by bond, recognizance or otherwise, that such motor vehicle shall not be operated upon the public highways during the period of impoundment, the same may be delivered to the person so convicted or the owner thereof. In such event, if such motor vehicle is operated upon the public highways during the said period, it shall be deemed to be operated without a permit. [9 Edw. VII., c. 81, s. 7.]

19d. [*Owner of Vehicle for Hire—Liability*].—In the event of the employer of a person driving a motor vehicle for hire, pay or gain being present in a motor vehicle at the time of any offense against this act being committed, such employer as well as the driver shall be liable to conviction for such offense. [9 Edw. VII., c. 81, s. 8.]

§ 20. [*Penalties for Other Violations of Act*].—Any person violating any of the provisions of this act, or any regulations made thereunder, where penalties for the violation thereof are not hereinbefore provided, upon summary conviction, shall be liable to a fine of not more than \$50 and costs. [9 Edw. VII., c. 81, s. 9.]

§ 21. [*Arrest without Warrant—Probable Cause*].—Every peace officer as defined by the criminal code who on reasonable and probable grounds believes that an offense against any of the provisions of sections 3, 8 and 11 of this act has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed that offense, is justified in arresting such person without warrant, whether such person is guilty or not. (New.)

§ 22. [*Assisting Police Officer—Probable Cause*].—Every one

called upon to assist a peace officer in the arrest of a person suspected of having committed such offense as last aforesaid is justified in assisting if he knows that the person calling on him for assistance is a peace officer, and does not know that there are no reasonable grounds for the suspicion.

§ 23. [*Arrest by Citizen—Driver Found Violating Act*].—Every one is justified in arresting without warrant any person whom he finds committing any offense against sections 3, 8 and 11 of this act for which the offender may be arrested without warrant or may be arrested when found committing.

§ 24. [*Detention of Vehicle by Person Making Arrest*].—Such peace officer or other person making an arrest without warrant as above provided may detain any motor vehicle in respect to which such offense has been committed until the final disposition of any proceeding which may be taken under the provisions of this act. Provided that such motor vehicle may be released on security being given to the satisfaction of a justice of the peace.

§ 25. [*Disposition of Person Arrested Without Warrant*].—Such peace officer or other person making an arrest shall with reasonable diligence take any person so arrested without warrant before a justice of the peace for a warrant or trial.

§ 26.—(1) [*Acts Repealed Hereby*].—The following acts and amendments thereof are hereby repealed:

3 Edward VII., chapter 27, intituled An Act to Regulate the Speed and Operation of Motor Vehicles on Highways;

5 Edward VII., chapter 28, intituled An Act to Amend the Act to Regulate the Speed and Operation of Motor Vehicles on Highways. Provided, however, that,—

(2) [*Matters Existing Under Repealed Acts*].—Any permit issued, order in council made, or any act or thing done under the acts hereby repealed shall continue in force as if issued, made or done under this act.

(3) [*Penalties Incurred Under Repealed Acts*].—Any penalty may be recovered and any offense may be prosecuted under this act for any matter or thing provided for under the acts hereby repealed.

§ 27. [*Commencement of Act*].—This act shall come into force on the first day of July, 1906.

An Act to Regulate Traveling on Public Highways and Bridges.

[Ont. R. S., c. 236.]

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Highways.

§ 1.—(1) [*Keeping to Right on Meeting Vehicles*].—In case a person travelling or being upon a highway in charge of a motor vehicle or of a vehicle drawn by one or more horses, or one or more other animals, meets another motor vehicle or a vehicle drawn as aforesaid, he shall turn out to the right from the centre of the road, allowing to the motor vehicle or vehicle so met one-half of the road.

(2) [*Meeting Bicycles or Tricycles*].—In case a person travelling or being upon a highway in charge of a motor vehicle or of a vehicle as aforesaid meets a person travelling upon a bicycle or tricycle he shall, where practicable, allow the person travelling upon the bicycle or tricycle sufficient room on the travelled portion of the highway to pass to the right.

2.—(1) [*Vehicles Overtaken to Turn to Right*].—In case a person travelling or being upon a highway in charge of a motor vehicle or of a vehicle as aforesaid, or on horseback, is overtaken by any vehicle or horseman travelling at a greater speed, the person so overtaken shall quietly turn out to the right and allow the said vehicle or horseman to pass.

(2) [*Vehicles Overtaking to Pass on Left*].—Any person so overtaking another motor vehicle, vehicle or horseman shall turn out to the left so far as may be necessary to avoid a collision with the vehicle or horseman so overtaken, and the person so overtaken shall not be required to leave more than one-half of the road free.

(3) [*Bicycles and Tricycles Overtaken by Other Vehicles*].—In case a person travelling or being upon a street or highway on a bicycle or tricycle is overtaken by any vehicle or motor vehicle as aforesaid or horseman travelling at a greater speed, the person so overtaken shall quietly turn out to the right and allow the said vehicle or horseman to pass, and the person so overtaking the bicycle or tricycle shall turn out to the left so far as may be necessary to avoid a collision.

(4) [*Bicycles or Tricycles Overtaking Other Vehicles*].—In case a person travelling upon a highway on a bicycle or tricycle overtakes any vehicle or motor vehicle as aforesaid or horseman travelling at less speed, or a person travelling on foot, the person travelling on the bicycle or tricycle shall give to the other person audible warning of his approach before attempting to pass.

§ 3. [*Driver Unable to Turn Out or to Stop*].—In the case of one vehicle or motor vehicle being met or overtaken by another, if by reason of the extreme weight of the load on either of the motor vehicles, vehicle or vehicles so meeting or on the vehicle or motor vehicle so overtaken the driver finds it impracticable to turn out as aforesaid, he shall immediately stop, and if necessary for the safety, of the other

vehicle or motor vehicle, and if required so to do, he shall assist the person in charge thereof to pass without damage.

§ 4. [*Penalty on Drivers, etc., too Drunk to Drive*].—In case a person in charge of a vehicle or motor vehicle or of a horse or other animal used as the means of conveyance, travelling or being on a highway as aforesaid, is, through drunkenness, unable to drive or ride the same with safety to other persons travelling on or being upon the highway, he shall incur the penalties imposed by this act.

§ 5. [*Racing, Swearing, etc., on Highways Forbidden*].—No person shall race with or drive furiously a motor vehicle or any horse or other animal, or shout, or use any blasphemous or indecent language upon any highway.

§ 6. [*Sleigh Horses to Have Bells*].—Every person travelling upon a highway with a sleigh, sled, or cariole, drawn by horse or mule, shall have at least two bells attached to the harness.

§ 7. [*Bicycles, etc., in Cities of Over 100,000*].—In case a person travelling upon a bicycle or tricycle in cities of over one hundred thousand inhabitants in a northerly or westerly direction upon the central strip between the double tracks of a surface railway meets another person on a bicycle or tricycle travelling in an opposite direction, he shall turn out to the right, allowing to the person on the bicycle or tricycle so travelling south or east the whole of such central strip.

Bridges.

§ 8. [*Notice to Be Posted at Bridges*].—Every person who has the superintendence and management of any bridge exceeding thirty feet in length may cause to be put up at each end thereof, conspicuously placed, a notice legibly printed, in the following form:

[*Form of Notice*].—"Any person or persons riding or driving on or over this bridge at a faster rate than a walk will, on conviction thereof, be subject to a fine, as provided by law."

§ 9. [*Penalty on Persons Defacing Such Notice*].—In case a person injures or in any way interferes with such notice he shall incur a fine of not less than \$1 nor more than \$8, to be recovered in the same manner as other penalties imposed by this act.

§ 10. [*Fast Driving Over Bridges Forbidden*].—If, while such notice continues up, a person rides or drives a horse or other beast of burden over such bridge at a pace faster than a walk, he shall incur the penalties imposed by this act.

Recovery and Application of Penalties.

§ 11. [*Penalty for Contravening this Act*].—In cases not otherwise specially provided for, if any person contravenes this act, and

such contravention is duly proved by the oath of one credible witness, before any justice of the peace having jurisdiction within the locality where the offense has been committed, the offender shall incur a penalty of not less than \$1 nor more than \$20, in the discretion of the justice, with costs.

§ 12. [*Penalty to Be Enforced by Distress*].—If not paid forthwith, the penalty and costs shall be levied by distress and sale of the goods and chattels of the offender, under a warrant signed and sealed by the convicting justice, and the over-plus, if any, after deducting the penalty and costs and charges of sale, shall be returned on demand, to the owner of the goods and chattels.

§ 13. [*Penalty to Be Enforced by Imprisonment*].—In default of payment of distress the offender shall, by warrant signed and sealed as aforesaid, be imprisoned in the common gaol for a period of not less than one day nor more than twenty days, at the discretion of the justice, unless the fine, costs and charges are sooner paid.

§ 14. [*Civil Acts Not Barred*].—No such fine or imprisonment shall be a bar to the recovery of damages by the injured party before any court of competent jurisdiction.

§ 15. [*Disposition of Fines Collected*].—Every fine collected under this act shall be paid to the treasurer of the local municipality or place in which the offense was committed and shall be applied to the general purposes thereof, unless the offense has been committed on a road or bridge, owned by a company, firm or person, and such company, firm or person, or the officer or servant of such company, firm or person is the complainant, in which case the fine collected shall be paid over to such company, firm or person.

REGULATIONS APPROVED OF BY ORDER-IN-COUNCIL.

1. The following fees shall be paid to the department of the provincial secretary for motor vehicle permits, renewals and transfers:

For permit and two markers	\$4 00
Subject to Clause 5, for permit to dealers having secondhand motor vehicles only for sale	5 00
Subject to said Clause 5, for permit to manufacturers and dealers not using more than two sets of markers	10 00
Subject to said Clause 5, for permit to manufacturers and dealers using more than two sets of markers	25 00
For each letter or marker issued to manufacturer	1 50
For annual renewal of each permit	2 00
For transfer of permit	1 00

2. A permit shall remain in force only during the calendar year in which it is issued, and it shall be renewed immediately after the 31st day of December in each year.

3. On a change of ownership of a registered motor vehicle, the permit and markers thereof shall go with the vehicle, and notice of such change of ownership shall within twenty-four hours be sent by the person to whom such permit was issued to the department of the provincial secretary, together with the full name and address of the purchaser, and the purchaser shall forthwith pay the transfer fee.

4. A marker shall be exposed only upon the motor vehicle in respect of which it was issued.

5. A permit may be issued to a manufacturer of or dealer in motor vehicles upon payment of the fee hereinbefore provided, which said permit shall apply to any motor vehicle which said manufacturer or dealer may from time to time during the term of said permit hold for sale, and not for private use or hire, and a marker which shall bear a letter or other device to distinguish the same from markers issued to others than manufacturers or dealers.

6. Such permit may be renewed from year to year upon the terms set out in section 1 hereof.

7. If for any reason any permit issued as aforesaid shall lapse or not be required, the provincial secretary may at any time cancel any permit issued as aforesaid, and thereupon the marker issued therewith shall forthwith be returned.

8. Where an owner or manufacturer fails, on or before the 15th day of April in each year, to renew a permit issued as aforesaid, the number of the marker issued therewith may thereupon be declared by the minister to be forfeited and all rights and privileges thereunder shall cease and the said number may thereafter be assigned to any other applicant.

9. Where a number has been forfeited as aforesaid the previous owner of the same or the transferee thereof shall, before being granted another permit, surrender the marker bearing such forfeited number.

Regulations for Chauffeurs Approved of by Order-in-Council.

Pursuant to the provisions of 8 Edward VII., sec. 53, being An Act to Amend the Act to Regulate the Speed and Operation of Motor Vehicles on Highways—

1. Every person applying for a license under 8 Edward VII., section 53, shall do so in writing on a prescribed form.

2. Every licensee shall notify the department of the provincial secretary of every change of his employer, giving the name, address and description of his employer from time to time, and the number of the permit of the motor vehicle which he operates.

3. Each license as issued shall bear a distinguishing number and the licenses shall be issued consecutively.

4. The department of the provincial secretary shall issue to each licensee a metal badge, oval in shape, bearing the words "Ontario," "Chauffeur" and the number of the license thereon.

5. Every licensee while driving a motor vehicle on a highway shall bear such badge conspicuously displayed upon his person.

6. If any person other than a licensee to whom the same was issued shall bear a badge while driving a motor vehicle, the license issued therewith may be cancelled by the provincial secretary.

7. If a licensee shall at any time drive a motor vehicle without displaying his badge as aforesaid or shall display any badge other than that issued with his license, his license may be revoked by the provincial secretary.

8. Each licensee shall pay a fee of \$1 for such license.

9. Every license shall be forfeited and invalid unless renewed on or before the 15th day of January in each year after the same has been issued.

10. Every licensee shall pay a fee of 50 cents for each renewal of his license as aforesaid.

Forms of application for licenses or permits may be had on application to the department.

PRINCE EDWARD ISLAND.

ACT OF APRIL 15, 1908.

- § 1. Definitions of Words and Phrases—"Motor Vehicles"—"Public Highway"—"Person."
2. Vehicles Excluded from Highways.
 3. Penalty for Operation of Vehicles.
 4. Procedure for Recovery of Penalty.
 5. Time for Commencing Prosecution.
 6. Summary Conviction.
 7. Former Acts, Ordinances, and Charters Repealed and Annulled.

An Act to prohibit the use of motor vehicles upon the public highways of this Province.

[8 Edw. VII., c. 13; assented to April 15, 1908.]

[*Preamble*].—Whereas it has become necessary in the public interest, and for the safety of the travelling public, to prohibit the use and operation of motor vehicles on the highways and public places in this province:

Be it therefore enacted by the Lieutenant-Governor and Legislative Assembly of the Province of Prince Edward Island, as follows:

§ 1. [*Definitions of Words and Phrases*].—The words and phrases used in this act shall, unless the context otherwise requires, be construed as follows:

(a) [*"Motor Vehicles"*].—"Motor vehicles," includes all motors, automobiles or any vehicle propelled by any power other than muscular power, except such vehicles as run only on rails and steam road rollers.

(b) [*"Public Highway"*].—"Public highway," includes any highway, public street, square, alley, lane, park or public place.

(c) [*"Person"*].—"Person," includes chauffeur, owner, driver, or person in charge of any motor vehicle.

§ 2. [*Vehicles Excluded from Highways*].—No person shall, after the coming into force of this act, use or operate upon a public highway in this Province any motor vehicle.

§ 3. [*Penalty for Operation of Vehicles*].—Any person who shall after the coming into force of this act, use or operate upon a public highway in this Province any motor vehicle, shall be deemed to have committed an offense under this act, and shall upon summary conviction thereof before the stipendiary magistrate for the city, town or county in which the offense is committed, be liable to a penalty of five hundred dollars, (\$500) and in default of payment of the penalty imposed, forthwith the said stipendiary shall commit the person so convicted to the common jail of the county wherein such conviction shall take place, for a period of six months, unless the said penalty and all costs and charges are sooner paid.

§ 4. [*Procedure for Recovery of Penalty*].—Any prosecution for any penalty under this act may be brought by or in the name of any police constable or peace officer, or by or in the name of any person, and the penalty when recovered shall belong to the Crown.

§ 5. [*Time for Commencing Prosecution*].—Every such prosecution shall be commenced within three months after the alleged offense, and shall be heard and determined in a summary manner, either upon the confession of the defendant, or upon the evidence of a witness or witnesses.

§ 6. [Summary Conviction].—Every offense against this act may be prosecuted, and the penalties and punishments therefor enforced, in the manner directed by the summary convictions part of the criminal code, and the amendments thereto, so far as no provision is hereby made, for any matter or thing which is required to be done with respect to such prosecution, and all the provisions contained in said act and amendments shall be applicable to such prosecution, and to the judicial and other officers before whom the same are hereby authorized to be brought, in the same manner as if they were incorporated in this act, and as if all such judicial and other officers were named in the said act, provided always that in no instance shall a warrant to distrain to levy the amount of the fine imposed under this act be issued, but in default of payment forthwith of the fine imposed with costs, the offender shall be committed to jail.

§ 7. [Former Acts, Ordinances, and Charters Repealed and Annulled].—Any statute of this Province, and all by-laws and ordinances of any city or town in relation to the regulation of motor vehicles, or to the use of the public highways by motor vehicles, are hereby repealed and are declared to be inoperative, and any charter granted by the lieutenant-governor in council, by letters patent under "The Prince Edward Island Joint Stock Companies Act," in relation to the use and operation of motor vehicles, is hereby declared to be forfeited and annulled.

QUEBEC.

REVISED STATUTE 1909, AS AMENDED 1911.

- 1388. Definitions—"Motor Vehicles"—"Chauffeur."
- 1389. Registration—Application—Fee.
- 1390. Record of Registration—Assignment of Number.
- 1391. Certificate of Registration—Seal for Display of Number.
- 1392. Use of Vehicle Conditioned upon Compliance Herewith.
- 1393. Owners of Vehicles Registered Elsewhere.
- 1394. Applicability to Aliens.
- 1395. Registration and Display of Numbers by Dealers and Manufacturers.
- 1396. Display of Another Than Registered Number.
- 1397. Sale of Vehicle—Return of Certificate.
- 1398. Reassignment of Number.
- 1399. Operator's License—Form.
Chauffeurs—Qualifications.
- 1400. Chauffeur's License—Application—Form—Badge.
- 1401. Issuance of License—Proof of Qualifications.
- 1402. Expiration of Licenses—Renewal—Fee.

- Driver to Have License in Possession.
 Suspension or Revocation of Licenses.
1403. Exhibition of License or Certificate upon Demand.
 1404. Driving While License or Certificate is Suspended—Penalty.
 1405. Penalties.
 1406. Owner Liable for Injury Done by Vehicle.
 1407. Arrest without Warrant—Probable Cause.
 1408. Arrest without Warrant—Detention of Vehicle.
 1409. Disposition of Person Arrested.
 1410. Prosecutions—Form of Proceeding—Practice—Fees.
 1411. Proceedings to Collect License Fees—Form.
 Proceedings for Violations of Act—Form.
 1412. Endorsement of Conviction on Certificate.
 1413. Record of Convictions—Report of Treasurer.
 1414. Tampering with Vehicle—Penalty.
 1415. Keeping to Right on Meeting, Left on Passing Other Vehicles—
 Rule at Crossways.
 1416. Approaching Horses—Care—Stopping on Signal.
 Horse becoming Frightened—Stopping Motor.
 1417. Equipment—Brakes—Signaling Device—Lights.
 Swivel Search Lights not to Be Used.
 1418. Speed Ordinances Nullified—Use of Vehicles in Parks, etc.
 1419. Speed—Regard to Traffic—Closely Built up Sections.
 1420. Speed at Bridges, Curves, Hills, etc.
 1421. Stopping in Case of Accident—Disclosing Identity.
 1422. Civil Actions not Abridged.
 1423. Ordinances Conflicting Herewith Forbidden—Exclusion of Ve-
 hicles from Highways.
 1424. Driving by Chauffeur Conditioned upon Being Licensed.
 1425. Transfer of Chauffeur's Badge—Fictitious Badge.
 1426. Employment of Unlicensed Chauffeur.
 1427. Driving while Intoxicated Forbidden.
 1428. Driving in Race or on Wager.
 1429. Unlicensed Driver Accompanied by Person Holding License.
 1430. Devices to Prevent Use When Left Unattended.
 1431. Execution of Act—Officers—Powers.
 1432. Regulations Made by Lieutenant-Governor—Fees—License and
 Certificates—Number-Plates, etc
 1433. Sums Due Crown—Privileged Debts.
 1434. Disposition of Fees and Fines Collected.
 1435. Expenses of Enforcing Act.

REGULATIONS ADOPTED UNDER ARTICLE 1432 OF THE LAW.

Revised Statutes, 1909, Title IV., Chapter V, Part Second, Division III. Section XXI, as Amended by Act of 1911.

1388. [*Definitions—"Motor Vehicles"*].—The expression "motor vehicle" in this section comprises all vehicles propelled by any other power than muscular force, excepting railway and tramway cars and motor vehicles running only on rails or railroads and road rollers and traction engines.

[*"Chauffeur"*].—The word chauffeur, in this section, means a person skilled in operating motor vehicles, who habitually drives such vehicle as a means of livelihood.

1389. [*Registration—Application—Fee*].—Every person acquiring a motor vehicle shall, for every such vehicle owned by him, file in the office of the provincial treasurer a statement of his name and address, with a brief description of the motor vehicle to be registered, with the name of the manufacturer, factory number, style of vehicle, motive power, and strength thereof, on a blank to be supplied by the provincial treasurer for that purpose, and he shall pay the proper registration fee, as provided in the following tariff, the amount of such fee to be sent in with the application:

For every motor vehicle used solely for commercial purposes, five dollars;

For every other motor vehicle of twenty-five horse-power or less, five dollars;

For every other motor vehicle of more than twenty-five horse-power and less than thirty-five horse-power, ten dollars;

For every other motor vehicle of thirty-five horse-power or more and less than fifty horse-power, fifteen dollars;

For every other motor vehicle of fifty horse-power or more, twenty dollars.

Every such registration shall expire on the first of April in each year, and is renewable annually at the said date, in the same manner and upon payment of the same annual fee as provided in this article.

1390. [*Record of Registration—Assignment of Number*].—On receipt of such statement the provincial treasurer shall at once register such motor vehicle in a book kept in the department for that purpose and assign to it a distinctive number.

1391. [*Certificate of Registration—Seal for Display of Number*].—Subject to the provisions of article 1432, the provincial treasurer shall, after such registration, deliver to the owner of the motor vehicle a certificate signed by him and bearing the date of issue, containing the particulars set forth in the statement filed with him, with the number given to such vehicle, together with a metal or leather seal, two inches wide by three inches in length, on which shall be stamped in legible letters and figures the words: "Registered Auto-

mobile (or, as the case may be) No. —, Province of Quebec," the registered number being inscribed thereon; which seal shall be affixed in a conspicuous position on the vehicle, and the number so given shall also be painted in letters four inches in height and one inch in width in a distinct and contrasting color and kept clean and free from dust or mud, on the front and back of the vehicle in the case of automobiles and on the back in that of motorcycles, so as to be easily distinguished, with the word: "Quebec" underneath the same, in letters of a similar size, under the penalty hereinafter provided. The certificate of registration shall be carried in some easily accessible place in the motor vehicle described therein.

1392. [*Use of Vehicle Conditioned upon Compliance Herewith*].—No motor vehicle shall be used on any highway or road unless it bears such seal and number.

1393. [*Owners of Vehicles Registered Elsewhere*].—The provisions of articles 1389, 1390, 1391 and 1392 relative to registration and the display of registration numbers shall not apply to a motor vehicle owned by any person having no regular place of abode or business in this Province for a period of more than three consecutive months in the calendar year; provided that the owner thereof shall have complied with the provisions of the law of the place of his residence relative to registration of motor vehicles and the display of the registration numbers thereon. The provisions of this article, however, shall apply to a motor vehicle owned by a non-resident of this Province only to the extent that under the laws of the place of his residence like exemptions and privileges are granted with respect to motor vehicles duly registered under the laws of and owned by residents of this Province.

1394. [*Applicability to Aliens*].—Article 1389 shall apply to the owner or the operator of a motor vehicle who does not reside in Canada.

1395. [*Registration and Display of Number by Dealers and Manufacturers*].—Any manufacturer of or dealer in motor vehicles may, instead of registering each motor vehicle owned or controlled by him, apply for a general distinguishing number or mark, and the provincial treasurer may, if satisfied of the facts stated in said application, grant the same and issue to the applicant a certificate of registration containing the name, place of business and address of the applicant and the general distinguishing number or mark assigned to him, and made in such form and containing such further details and provisions as the provincial treasurer may determine; and all motor vehicles owned or controlled by such manufacturer or dealer shall, until sold, or let for hire, or loaned, for more than five successive days, be regarded as sufficiently registered under such general distinguishing number or mark. The fee for a manufacturer's or dealer's certificate shall be ten dollars. Nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire. Every manufacturer's or dealer's registration shall

expire on the 1st day of April in each year, and is renewable annually at the said date in the same manner and upon payment of the same annual fee as provided in this article.

1396. [*Display of Another Than Registered Number*].—No motor vehicle shall be used or operated upon the public highways which displays thereon a registration seal or number belonging to any other vehicle, or a fictitious registration seal or number.

1397. [*Sale of Vehicle Return of Certificate*]. Upon the transfer of ownership during the period between the 1st day of April in any year and the same day in the year immediately following, of any motor vehicle registered in accordance with article 1389, the registration thereof shall expire and the person in whose name such vehicle is registered shall immediately return the certificate of registration to the provincial treasurer with a written notice containing the date of such transfer of ownership and the name, place of residence and address of the new owner; and the latter shall forthwith apply to have the vehicle registered in his own name. The fee for such transfer registration shall be one dollar, and shall be sent in with the application. Such transfer registration shall expire upon the first day of April following and shall be renewable at that date in accordance with article 1389.

1398. [*Reassignment of Number*]. The provincial treasurer may assign to any person who so surrenders his registration certificate, and who desires to register another motor vehicle, the distinguishing number or mark described in the surrendered certificate.

1399. 1. [*Operator's License Form*]. Every person who desires to operate a motor vehicle otherwise than as a chauffeur must previously obtain an operator's license valid for one year for which he shall apply to the provincial treasurer, which shall be issued to him in such manner and form as the provincial treasurer may determine.

2. [*Chauffeurs Qualifications*]. Before an operator's license is granted, the applicant shall present such evidence as to his qualifications as may be required by the provincial treasurer.

3. No operator's or chauffeur's license shall be issued to any person under eighteen years of age.

1400. [*Chauffeur's License Application Form Badge*]. Every person who desires to operate a motor vehicle as a chauffeur must previously obtain a chauffeur's license. For that purpose he shall file in the treasury department, on a blank to be furnished to him from the said department, a statement which shall include his name and address, and the trade name and motive power of the vehicle which he is able to operate. Such statement shall be filed and recorded in the department, and a number shall be assigned to such chauffeur. The provincial treasurer shall thereupon issue to the applicant a chauffeur's license and shall deliver to him a metal badge of such size and dimensions as he may select, with the words: "Registered Chauffeur No ———, Quebec," stamped or painted thereon, which badge shall be at

all times worn by such chauffeur when operating a motor vehicle on the public roads, under the penalty hereinafter provided.

1401. [*Issuance of License—Proof of Qualifications*].—No such chauffeur's license shall be granted before the applicant has given such proof of his qualifications thereupon as may be required by the provincial treasurer.

1402. 1. [*Expiration of Licenses—Renewal—Fee*].—Each operator's or chauffeur's license shall expire on the first day of April in each year, and shall be renewable at that date. The fee for each such license and renewal thereof shall be five dollars, the amount of said fee to be sent in with the application.

[*Driver to Have License in Possession*].—Every holder of a license under this section must carry his license with him when operating a motor vehicle.

2. [*Suspension or Revocation of Licenses*].—The provincial treasurer may, at any time, suspend or revoke any license for any violation of this section or any of the regulations made thereunder.

1402a. [*Issue of Licenses to Nonresidents*].—The provisions of article 1393 respecting the exemptions and privileges of nonresidents with respect to registration apply equally to the issue of licenses to nonresidents.

1403. [*Exhibition of License or Certificate upon Demand*].—The refusal by any operator or chauffeur to exhibit his license or certificate of registration when called upon so to do by an authorized representative of the provincial treasurer, is an offense against this act.

1404. [*Driving While License or Certificate is Suspended—Penalty*].—No person whose certificate of registration or license to operate has been suspended or revoked shall operate a motor vehicle thereafter in this province while such suspension or revocation remains in force, and any person convicted of so doing and any person convicted of operating or causing or permitting any other person to operate a motor vehicle after the certificate of registration for such vehicle has been suspended or revoked, shall be punished by a fine not exceeding one hundred dollars or by imprisonment for ten days, or by both such fine and imprisonment.

1405. [*Penalties*].—Any offense against this section or the regulations made thereunder, not specially provided for, shall render the guilty party liable, upon an action taken before the circuit court or magistrate's court or on conviction before a justice of the peace, for the first offense to a fine not less than twenty dollars nor more than one hundred dollars, and, in default of payment, to imprisonment for not more than one month, or to both, and for a second or every subsequent offense to a fine of from one hundred to two hundred dollars, and, in default of payment, to imprisonment for not more than two months.

1406. [*Owner Liable for Injury Done by Vehicle*].—The owner of a motor vehicle for which a certificate is issued under the provisions

of this section, shall be held responsible for any violation thereof or of any regulation provided thereunder by order of the lieutenant-governor in council; and shall be responsible for all accidents or damages caused by his motor vehicle upon a highway or public square.

1407. [*Arrest Without Warrant—Probable Cause*].—Every peace officer as defined by the criminal code, and every person thereunto authorized under article 1431, who, on reasonable and probable grounds, believes that an offense against any of the provisions of articles 1392, 1393, 1395, 1417, 1419, 1427 or 1428 has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed such offense and that such person may escape apprehension if not arrested without a warrant, or who finds any person committing such offense, may arrest such person without warrant.

1408. [*Arrest Without Warrant—Detention of Vehicle*].—Such peace officer or person making an arrest without warrant, as above provided, may detain any motor vehicle by the owner or operator of which such offense is believed to have been committed, until any proceedings which may be taken under the provisions of this section, shall have been finally disposed of; provided, however, that such motor vehicle may be released on security being given to the satisfaction of a justice of the peace.

1409. [*Disposition of Person Arrested*].—Such peace officer or person making an arrest shall, with reasonable diligence, take any person so arrested without warrant, before a justice of the peace to be dealt with according to law.

1410. 1. [*Prosecutions—Form of Proceeding*].—Subject to the provisions contained in this section, prosecutions thereunder before the circuit court, or the district magistrate's court, shall be taken by ordinary action.

2. [*Prosecutions—Practice*].—Prosecutions under this section before a justice of the peace, shall be governed by part XV of the criminal code.

3. [*Prosecutions—Fees*].—In all prosecutions or actions brought before the circuit court, or district magistrate's court, the fees of the clerk of such court, of the advocate and of the bailiff, shall be the same as those which are allowed in the tariff of fees for third class actions in the circuit court.

In prosecutions before a justice of the peace, the fees shall be those allowed by the tariffs made by the lieutenant-governor in council under the authority of article 3253.

1411. 1. [*Proceedings to Collect License Fees—Form*].—All legal proceedings instituted to recover any license fee or registration fee due to the crown by virtue of this section, shall be taken in the name of the proper collector of provincial revenue.

2. [*Proceedings for Violations of Act—Form*].—Legal proceedings

instituted for the violation of any of the provisions of this section or of any of the regulations made thereunder, may be taken in the name of the proper collector of provincial revenue, or of the corporation of the city, town or local municipality in which the offense was committed, and not otherwise, saving always the provisions of article 1422.

1412. [*Endorsement of Conviction on Certificate*].—The justice or court before whom any person is convicted under the provisions of article 1404 or article 1405 shall cause to be entered upon the certificate of registration of the person so convicted the date of such conviction, the name of the court and the penalty imposed.

1413. [*Record of Convictions—Report to Treasurer*].—A full record shall be kept by every justice of the peace and by every court in this province of every case in which a person is convicted under the provisions of this section or of any other act relative to motor vehicles, and a certified copy of such record shall be sent forthwith by each such court or justice to the provincial treasurer.

The said courts and justices shall report to the provincial treasurer the details of any particularly flagrant cases which may be heard before them, and they may make such recommendations to the provincial treasurer as to the suspension or revocation of the license or certificate of registration of the defendants in such cases as they may deem necessary.

The provincial treasurer shall keep such records in his department, and they shall be open to the inspection of any person during reasonable business hours.

1414. [*Tampering with Vehicle—Penalty*].—Any person using, interfering or tampering with any motor vehicle without the permission of the owner, besides being liable for all damages caused, shall upon conviction be liable to a fine of not less than ten dollars or imprisonment for not more than six months or both.

1415. [*Keeping to Right on Meeting, Left on Passing Other Vehicles—Rule at Crossways*].—Whenever a person operating a motor vehicle shall meet a horse or horses or other draft animals, or any vehicle, the person so operating such motor vehicle shall reasonably turn the same to the right of the centre of such highway so as to pass without interference. Any such person so operating a motor vehicle shall, on overtaking any such horse, draft animal or vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person so operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centre of such highways when turning to the right or left.

1416. 1. [*Approaching Horses—Care—Stopping on Signal*].—Every person having the control or care of a motor vehicle shall, upon any street or public road, and upon the approach of any horse ridden,

driven or led or of any vehicle drawn by a horse, so manoeuvre such motor vehicle as to take every reasonable precaution to prevent such horse being frightened, and to safeguard and protect the person riding, driving or leading it; and, if such horse appears to be frightened, the person driving the motor vehicle must diminish the speed thereof and, if required, by a signal made by lifting the hand or otherwise, by the person in charge of such horse, he shall stop and shall not approach nearer such animal unless such movement is necessary to avoid an accident or damages, or such animal appears to be under the control of the person in charge thereof.

2. [*Horse Becoming Frightened—Stopping Motor*].—If the horse is badly frightened or the person operating such motor vehicle is requested so to do, he shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others.

1417. [*Equipment—Brakes—Signaling Device—Lights*].—Every motor vehicle, while in use on a public highway, shall be provided with good and sufficient brakes, and also with a suitable bell, horn or other signal, and if an automobile, shall exhibit from one hour after sunset to one hour before sunrise, two lamps showing white lights visible within a reasonable distance in the direction toward which such vehicle is proceeding, showing the registered number of the vehicle in separate arabic numerals, not less than one inch in height and each stroke to be not less than one-quarter of an inch in width, and also a red light visible in the reverse direction; and if a motorcycle, one lamp shall be affixed to the front thereof.

[*Swivel Search Lights Not to Be Used*].—No motor vehicle shall carry what is known to the trade as a swivel search light.

1418. [*Speed Ordinances Nullified—Use of Vehicles in Parks, etc.*].—No ordinance, by-law, or regulation of any city, town or other municipality in force on or before the ninth day of March, 1906, or passed since that date, regulating the speed at which automobiles or motorcycles shall be run upon its public ways, shall have any force or effect. Nothing herein contained shall, however, be so construed as to affect the rights of boards of park commissioners, as authorized by law; and such boards and the local authorities may, notwithstanding this section, make, enforce, and maintain such reasonable by-laws, rules, and regulations concerning the speed at which motor vehicles may be operated in any parks or parkways within a city, but, in that event, must, by signs at the entrance of such park and along such parkway, conspicuously indicate the rate of speed permitted, and may even exclude motor vehicles from any park, parkway, and cemetery or grounds used for the burial of the dead.

1419. [*Speed—Regard to Traffic—Closely Built up Sections*].—No motor vehicle shall be driven on a public highway at a speed greater than is reasonable and proper, having regard to the traffic and use of

the highway or so as to endanger the life or limb of any person, or the safety of any property; nor in any event faster than nine miles an hour, within a city, town or village, or on any public highway where the territory contiguous thereto is closely built up, and than fifteen miles an hour elsewhere.

1420. [*Speed at Bridges, Curves, Hills, etc.*].—When approaching a sharp angle, bridge, or steep descent in a highway, or intersecting highways and crossings, the speed of the motor vehicle shall be reduced to four miles per hour and a signal shall be given upon approaching an angle in a highway or the intersection of two streets, or when coming into a street or highway from any garage, yard, or private ground.

1421. [*Stopping in Case of Accident—Disclosing Identity*].—In case of any accident to a person or property on the public highway, due to the operation of a motor vehicle thereon, the person operating such vehicle shall stop and, upon being required by any person present, give such person his name and address, together with the registered number, name, and address of the owner of such vehicle, under the penalty prescribed by article 1405.

1422. [*Civil Actions not Abridged*].—Nothing in this section shall be construed to curtail or abridge the right of any person to prosecute the civil action for damages.

1423. [*Ordinances Conflicting Herewith Forbidden—Exclusion of Vehicles from Highways*].—Subject to the provisions of this section, municipal corporations or councils shall not pass, enforce or maintain any by-law or resolution requiring of any owner or operator of a motor vehicle any license or permit to use the public highways, or excluding or prohibiting any motor vehicle whose owner has complied with this section from the free use of such highways, except such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or except as herein provided, in any way affecting the registration or numbering of motor vehicles or prescribing a lower rate of speed than herein specified at which such vehicles may be operated, or affecting the use of the public highways, contrary to or inconsistent with the provisions of this section; and all such by-laws, or resolutions in force on the ninth day of March, 1906, are null and void.

1424. [*Driving by Chauffeur Conditioned upon Being Licensed*].—No person shall operate a motor vehicle as a chauffeur upon the public highways without being licensed as hereinabove provided, under the penalty hereinabove provided.

1425. [*Transfer of Chauffeur's Badge—Fictitious Badge*].—No chauffeur being licensed as hereinabove provided, shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle wear any badge belonging to another person, or a fictitious badge.

1426. [*Employment of Unlicensed Chauffeur*].—No person shall employ as chauffeur of a motor vehicle any person not specially licensed as such.

1427. [*Driving While Intoxicated Forbidden*].—No intoxicated person shall drive a motor vehicle.

1428. [*Driving in Race or on Wager*].—No person shall drive a motor vehicle upon any public street, road or highway in a race or on a bet or wager.

1429. [*Unlicensed Driver Accompanied by Person Holding License*].—The provisions of this section shall not prevent the operation of motor vehicles by unlicensed persons if with or accompanied by a licensed chauffeur or operator.

1430. [*Devices to Prevent Use when Left Unattended*].—Every motor vehicle shall be provided with a lock, key or other device to prevent said vehicle from being set in motion, and no person shall allow any such vehicle operated by him to stand or remain unattended in any street, avenue, road, alley, highway, park, parkway or other public place without first locking or making fast the vehicle as above provided.

1431. [*Execution of Act—Officers—Powers*].—For the issue of certificates and licenses and for the general enforcement of this section, and of any regulations made thereunder, the provincial treasurer may appoint to represent him and act in his name such officers or persons as he may select, and such officers or persons may administer oaths and take testimony.

1432. [*Regulations Made by Lieutenant-governor—Fees—Licenses and Certificates—Number Plates, etc.*].—The lieutenant-governor in council may make a tariff of the fees to be taken by the provincial treasurer for the issuance of the certificate and of the seal mentioned in this section, different from the sums mentioned in this section, and may make regulations regarding the issue, renewal, and transfer of licenses and certificates, the mode and time of payment of fees, the determining of the horsepower of motor vehicles sought to be registered, the furnishing to operators and chauffeurs of plates of board, rubber or other material upon which the large number of the vehicle shall be displayed, and the size, shape, and color of the same, together with the fees exigible for such plates, and also all such further regulations as he may deem necessary for the efficient working thereof.

1433. [*Sums Due Crown—Privileged Debts*].—Any sum that may become due to the Crown in virtue of this section shall constitute a privileged debt upon a motor vehicle ranking immediately after law costs.

1434. [*Disposition of Fees and Fines Collected*].—The fees im-

posed by this section and all penalties recovered thereunder shall form part of the consolidated revenue fund of the province.

1435. The revenue derived from all fees collected and penalties imposed under this section shall be transmitted to the Department of Agriculture to be applied to the improvement of the highways of the Province, less such proportion thereof as may be applied from time to time, by the Provincial Treasurer, under the direction of the Lieutenant-Governor in Council, to the payment of the expenses incurred for carrying out the said section.

REGULATIONS ADOPTED UNDER THE AUTHORITY OF ARTICLE 1432 OF THE
LAW.

1. In cases where the structure of a motor vehicle is such that the registration number cannot conveniently be painted thereon as required by article 1391 of the law, there may be used instead, at the front and back, a wooden, rubber, or metal board or plate attached to the vehicle by rivets or in some equally firm manner so as not to be easily removable. The dimensions of this plate shall not be less than twelve inches by seven. The registration number shall be displayed thereon in figures of the size required by article 1391, the figures to be white upon a blue or black ground, and to the left of the number or below it shall be painted the letter "Q." Owners of motor vehicles who register them subsequently to the date of the present order are required to use plates obtained from the license issuers. For each such plate a fee of one dollar shall be paid by the person obtaining it.

2. The bottom of each number plate shall be horizontal and not less than eight nor more than forty-eight inches from the ground, and the rear plate shall be so placed that it may at no time be hidden by the trunk-rack or otherwise; and during the period when the vehicle is required to display lights, the said rear plate shall be illuminated so as to be plainly visible at a distance of sixty feet.

3. The horse-powers of gasoline automobiles are to be fixed according to the formula adopted by the Association of Licensed Automobile Manufacturers (A. L. A. M.), which is as follows:

$$\text{Horse-power} = \frac{\text{bore} \times \text{bore} \times \text{number of cylinders}}{2\frac{1}{2}}$$

In other terms:

$$\text{H. P.} = \frac{(\text{diameter in inches})^2 \times \text{number of cylinders}}{2.5}$$

4. Subject to the provisions of article 1393 and to the exemptions enacted therein, if any motor vehicle, when brought into this province from any country, state or province outside of the Province of Quebec, already bears a registration number assigned to it in such country, state or province, the owner or operation of such vehicle will be allowed to retain such number, which will be recognized and accepted by the officer issuing the registration certificate; in such case it will be sufficient to affix to the vehicle the seal furnished by such officer, the number of which seal, together with the foreign registration number, shall both be entered upon the certificate issued with the seal.

5. Every manufacturer of or dealer in motor vehicles, when applying for a registration number or mark under article 1395 of the law, must not fail to designate to the department upon the form of application furnished to him, each type or trade name of motor vehicle which he makes or in which he deals.

6. No license or registration certificate is to be issued before payment in full has been made therefor by the applicant.

7. The only forms of licenses, certificates, seals, badges and receipts which will be recognized by the treasury department are the official ones issued by the said department.

SASKATCHEWAN.

ACT OF MAY 26, 1906.

- § 1. Definition of "Motor Vehicle."
 2. Registration—Number—Fee.
 3. Issuance of License—Renewals and Transfers.
 4. Display of Number.
 5. Equipment—Signaling Device—Sounding—Lights—Number to Be Shown.
 6. Speed—Speedways.
 7. Driving in Race or on Wager.
 8. Approaching Horses—Care—Speed—Stopping.
 9. Speed at Crossways and Bridges.
 10. Owner Responsible for Violations of Law.
 11. Revocation of License.
 12. Penalties.

An Act to regulate the speed and operation of motor vehicles on highways.

[6 Edw. VII., c. 44; assented to May 26, 1906.]

1. The first part of the document is a list of the names of the persons who were present at the meeting. The names are listed in alphabetical order.

2. The second part of the document is a list of the topics that were discussed at the meeting.

3. The third part of the document is a list of the actions that were taken at the meeting. The actions are listed in chronological order.

4. The fourth part of the document is a list of the decisions that were made at the meeting.

5. The fifth part of the document is a list of the conclusions that were reached at the meeting.

6. The sixth part of the document is a list of the recommendations that were made at the meeting.

7. The seventh part of the document is a list of the questions that were asked at the meeting.

8. The eighth part of the document is a list of the answers that were given at the meeting.

4. Subject to the provisions of article 1393 and to the exemptions enacted therein, if any motor vehicle, when brought into this province from any country, state or province outside of the Province of Quebec, already bears a registration number assigned to it in such country, state or province, the owner or operation of such vehicle will be allowed to retain such number, which will be recognized and accepted by the officer issuing the registration certificate; in such case it will be sufficient to affix to the vehicle the seal furnished by such officer, the number of which seal, together with the foreign registration number, shall both be entered upon the certificate issued with the seal.

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An Act to regulate the speed and operation of motor vehicles on highways.

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before dawn such light to display prominently upon the glass of the lamp in the front of such vehicle the number of the permit issued as aforesaid by the provincial secretary and such numbers to be of such size and design and displayed in such manner as may be determined by the lieutenant governor in council.

§ 6. [*Speed Speedways*]. No motor vehicle shall be run upon any public highway or place within any city, town or incorporated village at a greater rate of speed than ten miles an hour or upon any public highway or place outside of any city, town or incorporated village at a greater speed than twenty miles an hour:

Provided that the council of any city or town may by by-law, set apart any public street or highway or any part thereof on which motor vehicles may be driven at any higher rate of speed than herein limited for the purpose of testing the same and may pass by-law for regulating and governing the use of any such street or highway or part thereof for the purposes aforesaid.

§ 7. [*Driving in Race or on Wager*]. No person shall drive a motor vehicle upon any public street, highway, road, park, parkway or driveway in a race nor for a bet or wager.

§ 8. [*Approaching Horses Care Speed Stopping*]. Every person having control or charge of a motor vehicle shall whenever upon any public street or place approaching any vehicle drawn by a horse or horses or any horse upon which any person is riding operate, manage and control such motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses and to insure the safety and protection of any person riding or driving the same and shall not approach such vehicle or horse within one hundred yards or pass the same going in the same or opposite direction at a greater speed than six miles per hour; and if any such horse or horses appear frightened the person in control of such motor vehicle shall reduce its speed and shall not proceed further towards such animal unless such movement be necessary to avoid accident or injury or until such animal appears to be under control of its rider or driver.

§ 9. [*Speed at Crossways and Bridges*]. Upon approaching a crossing of intersecting ways and also in traversing the crossing or intersection or in crossing a bridge the person in control of a motor vehicle shall run it at a rate of speed less than that specified and not greater than is reasonable and proper having regard to traffic and use of the intersecting ways or bridge.

§ 10. [*Owner Responsible for Violations of Law*]. The owner of a motor vehicle for which a permit is issued under the provisions of this act shall be held responsible for any violation of this act or of any regulation provided by order of the lieutenant governor in council.

§ 11. [*Revocation of License*].—The provincial secretary may at any time suspend or revoke any permit or license issued under the provisions of this act on account of any misconduct of the holder of such license or infraction of the provisions of this act or regulations provided thereunder.

§ 12. [*Penalties*].—Any person violating any of the provisions of this act shall upon summary conviction before a justice of the peace be liable to a penalty not exceeding fifty dollars and in default of payment one month's imprisonment.

BRITISH STATUTE.

ACT OF AUG. 14, 1903.

- § 1. Subsec. 1. Operation of Vehicles—Care—Speed.
 - 2. Arrest of Offenders without Warrant—Refusal to Disclose Identity.
 - 3. Refusal to Disclose Identity—Duty to Give Information as to Driver.
- 2. Subsec. 1. Registration of Vehicles.
 - 2. Display of Number.
 - 3. Fees for Registration.
 - 4. Display of Number—Offenses—Manufacturers or Dealers.
- 3. Subsec. 1. Driver's License — Employment of Unlicensed Driver.
 - 2. Qualifications of Licensees—Fee.
 - 3. Duration of License—Renewal.
 - 4. Production of License to Officer—Penalty.
 - 5. Qualifications of Licensees—Age.
- 4. Subsec. 1. Penalties—Suspension of License—Disqualification to Drive—Endorsement of License.
 - Subsec. 2. Production of License for Endorsement.
 - 3. Effect of Suspension or Disqualification.
 - 4. Appeal from Order of Disqualification.
 - 5. Violation of Order of Suspension or Disqualification.
- 5. Offenses Relating to License—Forgery—Fraud—Transfer.
- 6. Accidents—Stopping—Disclosing Identity—Penalties.
- 7. Subsec. 1. Local Government Board—Powers and Duties—Registration and License.
- 8. Powers of Board—Exclusion of Cars from Certain Highways.
- 9. Subsec. 1. Speed — Penalties.
 - 2. Notice of Prosecution.
 - 3. Revocation or Alteration of Regulations.
 - 4. "Local Authority" Defined.
- 10. Subsec. 1. Notice of Regulations Respecting Use of Cars.
 - 2. Signs, Corners, Crossways and Hills.
- 11. Subsec. 1. Penalties—Violations of Act not Specially Provided for.

- Subsec. 2. Appeals from Convictions.
- § 12. Subsec. 1. Local Government Board—Regulations Respecting Weight of Cars.
 - 2. Regulations as to Speed.
- 13. "Male Servant" Defined.
- 14. Local Government Board—Duties—Act of 1888.
- 15. Common Law Liability of Drivers Not Affected.
- 16. Persons in Service of Crown.
- 17. Subsec. 1. Driving Over Menai Bridge—Regulations.
 - 2. Penalties.
- 18. Application of Act to Scotland.
 - Subsec. 1. Secretary for Scotland—Powers.
 - 2. Reference to Burgh Council.
 - 3. "Local Authority"—Speed—Signs.
 - 4. Local Government Act, 1889.
 - 5. Recovery of Fines—Imprisonment.
 - 6. Appeals from Convictions.
 - 7. Appeals from Orders of Suspension or Disqualification.
- 19. Application to Ireland.
 - Subsec. 1. Reference to Local Government Board.
 - 2. Local Government Order, 1898.
 - 3. Convictions—Summary Jurisdiction Act, 1851.
 - 4. Criminal Evidence Act, 1898.
- 20. Subsec. 1. Definitions—"Motor Car"—"Highway."
 - 2. Time of Taking Effect.
 - 3. Mode of Citation of Act.
- 21. Duration of Act.

ACT OF NOV. 25, 1909.

- § 1. Subdiv. 1. International Traffic—Orders in Council.
 - 2. Modifications of Motor Car Act, 1903.
 - 3. Repeal or Amendment of Orders.
- 2. Mode of Citation of Act.

An Act to amend the Locomotives on Highways Acts, 1896.

[14th August, 1903; 3 Edw. VII., c. 36.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:

§ 1. Subsec. (1). [*Operation of Vehicles—Care—Speed*].—If any person drives a motor car on a public highway recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the

nature, condition and use of the highway, and to the amount of traffic which actually is at the time, or which might reasonably be expected to be, on the highway, that person shall be guilty of an offense under this act.

Subsec. (2). [*Arrest of Offenders Without Warrant—Refusal to Disclose Identity*].—Any police constable may apprehend without warrant the driver of any car who commits an offense under this section within his view, if he refuses to give his name and address or produce his license on demand, or if the motor car does not bear the mark or marks of identification.

Subsec. (3). [*Refusal to Disclose Identity—Duty to Give Information as to Driver*].—If the driver of any car who commits an offense under this section refuses to give his name or address, or gives a false name or address, he shall be guilty of an offense under this act, and it shall be the duty of the owner of the car, if required, to give any information which it is within his power to give, and which may lead to the identification and apprehension of the driver, and if the owner fails to do so he also shall be guilty of an offense under this act.

§ 2. Subsec. (1). [*Registration of Vehicles*].—Every motor car shall be registered with the council of a county or county borough, and every such council shall assign a separate number to every car registered with them.

Subsec. (2). [*Display of Number*].—A mark, indicating the registered number of the car and the council with which the car is registered, shall be fixed on the car or on a vehicle drawn by the car, or on both, in such manner as the council require in conformity with regulations of the Local Government Board made under this act.

Subsec. (3). [*Fees for Registration*].—A fee of twenty shillings shall be charged by the council of a county or county borough on the registration of a car, except in the case of motor cycles for which the fee shall be five shillings.

Subsec. (4). [*Display of Number—Offenses—Manufacturers or Dealers*].—If a car is used on a public highway without being registered, or if the mark to be fixed in accordance with this act is not so fixed, or if, being so fixed, it is in any way obscured or rendered or allowed to become not easily distinguishable, the person driving the car shall be guilty of an offense under this act unless in the case of a prosecution for obscuring a mark or rendering or allowing it to become not easily distinguishable, he proves that he has taken all steps reasonably practicable to prevent the mark being obscured or rendered not easily distinguishable.

Provided that—

(a) A person shall not be liable to a penalty under this section if he proves that he has had no reasonable opportunity of registering

the car in accordance with this section, and that the car is being driven on a highway for the purpose of being so registered; and

(b) The council of any county or county borough, in which the business premises of any manufacturer of or dealer in motor cars are situated, may, on payment of such annual fee, not exceeding three pounds, as the council require, assign to that manufacturer or dealer a general identification mark which may be used for any car on trial after completion, or on trial by an intending purchaser, and a person shall not be liable to a penalty under this section while so using the car, if the mark so assigned is fixed upon the car in the manner required by the council in accordance with regulations of the Local Government Board made under this act.

§ 3. Subsec. (1). [*Driver's License—Employment of Unlicensed Driver*].—A person shall not drive a motor car on a public highway unless he is licensed for the purpose under this section, and a person shall not employ any person who is not so licensed to drive a motor car. If any person acts in contravention of this provision he shall be guilty of an offense under this act.

Subsec. (2). [*Qualifications of Licensees—Fee*].—The council of a county or county borough shall grant a license to drive a motor car to any person applying for it who resides in that county or county borough on payment of a fee of five shillings, unless the applicant is disqualified under the provisions of this act.

Subsec. (3). [*Duration of License—Renewal*].—A license shall remain in force for a period of twelve months from the date on which it is granted, but shall be renewable, and the same provisions shall apply with respect to the renewal of the license as apply with respect to the grant of the license.

Subsec. 4. [*Production of License to Officer — Penalty*]. — A license must be produced by any person driving a motor car when demanded by a police constable. If any person fails so to produce his license he shall be liable, on summary conviction in respect of each offense to a fine not exceeding five pounds.

Subsec. (5). [*Qualifications of Licensees—Age*].—Any person under the age of seventeen years shall be disqualified for obtaining a license (except that a license limited to driving motor cycles may be granted to a person over the age of fourteen years), and any person who already holds a license shall be disqualified for obtaining another license while the license so held by him is in force.

§ 4. Subsec. (1). [*Penalties—Suspension of License—Disqualification to Drive—Endorsement of License*].—Any court before whom a person is convicted of an offense under this act, or of any offense in connection with the driving of a motor car, other than a first or second offense, consisting solely of exceeding any limit of speed fixed under this act—

(a) may, if the person convicted holds any license under this act, suspend that license for such time as the court thinks fit, and, if the court thinks fit, also declare the person convicted disqualified for obtaining a license for such further time after the expiration of the license as the court thinks fit; and

(b) may, if the person convicted does not hold any license under this act, declare him disqualified for obtaining a license for such time as the court thinks fit; and

(c) if the person convicted holds any license under this act, shall cause particulars of the conviction and of any order of the court made under this section to be endorsed upon any license held by him, and shall also cause a copy of those particulars to be sent to the council by whom any license so endorsed has been granted.

Subsec. (2). [*Production of License for Endorsement*].—Any person so convicted, if he holds any license under this act shall produce the license within a reasonable time for the purposes of endorsement and if he fails to do so shall be guilty of an offense under this act.

Subsec. (3). [*Effect of Suspension or Disqualification*].—A license so suspended by the court shall during the term of suspension be of no effect, and a person whose license is suspended or who is declared by the court to be disqualified for obtaining a license shall, during the period of suspension or disqualification, be disqualified for obtaining a license.

Subsec. (4). [*Appeal from Order of Disqualification*].—Any person who is by virtue of an order of the court under this section disqualified for obtaining a license may appeal against the order, in the same manner as a person may appeal who is ordered to be imprisoned without the option of a fine; and the court may, if they think fit, pending the appeal, defer the operation of the order.

Subsec. (5). [*Violation of Order of Suspension or Disqualification*].—If any person, who under the provisions of this act is disqualified for obtaining a license, applies for and obtains a license while he is so disqualified, or if any person whose license has been endorsed applies for or obtains a license without giving particulars of the endorsement, that person shall be guilty of an offense under this act, and any license so obtained shall be of no effect.

§ 5. [*Offenses Relating to License—Forgery—Fraud—Transfer*].—If any person forges or fraudulently alters or uses, or fraudulently lends or allows to be used by any other person, any mark for identifying a car or any license under this act he shall be guilty of an offense under this act.

§ 6. [*Accidents—Stopping—Disclosing Identity—Penalties*].—A person driving a motor car shall, in any case, if an accident occurs to any person, whether on foot, on horseback or in a vehicle, or to

any horse or vehicle in charge of any person owing to the presence of the motor car on the road, stop and if required give his name and address and also the name and address of the owner and the registration mark or number of the car; and if any person knowingly acts in contravention of this section, he shall be liable, on summary conviction, in respect of the first offense to a fine not exceeding ten pounds and in respect of the second offense to a fine not exceeding twenty pounds and in respect of any subsequent offense to a fine not exceeding twenty pounds, or, in the discretion of the court, to a term of imprisonment not exceeding one month.

§ 7. Subsec. (1). [*Local Government Board—Powers and Duties—Registration and License*].—The Local Government Board may, under section six of the Locomotives on Highways Act, 1896 (in this act referred to as the principal act), make regulations—

(a) providing generally for facilitating the identification of motor cars, and in particular for determining and regulating generally the size, shape and character of the identifying marks to be fixed under this act and the mode in which they are to be fixed and to be rendered easily distinguishable, whether by night or by day, and with respect to the registration of cars, and the entry of particulars, including particulars of the ownership of the car, in the register, and the giving of those particulars, and for making any particulars contained in the register available for use by the police, and for making the registration of a car void if the regulations as to registration are not complied with; and

(b) with respect to the licenses to be granted by the councils of counties or county boroughs under this act, and in particular with respect to the register to be kept of those licenses and the renewal of licenses, and for providing special facilities for granting licenses to persons not resident in the United Kingdom, and for communicating particulars thereof to adjoining and other county or county borough councils, and for making any particulars with respects to any persons whose licenses are suspended or endorsed available for use by the police, and for preventing a person holding more than one license.

Subsec. (2). The councils of counties and county boroughs shall comply with any regulations so made by the Local Government Board, and may, if authorized by those regulations and in accordance therewith, charge in respect of the entry of particulars of the ownership of a car on change of ownership such fee, not exceeding ten shillings, as may be prescribed by the regulations, and in respect of the issue of a new license in the place of a license lost or defaced such fee not exceeding one shilling as may be prescribed by the regulations.

§ 8. [*Powers of Board—Exclusion of Cars from Certain Highways*].—The Local Government Board may, by regulations made under

section six of the principal act, prohibit or restrict the driving of any motor cars, or of any special kind of motor cars, on any specified highway or part of a highway, which does not exceed sixteen feet in width, or on which ordinary motor car traffic would, in their opinion, be especially dangerous.

§ 9. Subsec. (1). [*Speed—Penalties*].—Section four of the principal act (which relates to the rate of speed of motor cars) is hereby repealed, but a person shall not, under any circumstances, drive a motor car on a public highway at a speed exceeding twenty miles per hour, and, within any limits or place referred to in regulations made by the Local Government Board with a view to the safety of the public, on the application of the local authority of the area in which the limits or place are situate, a person shall not drive a motor car at a speed exceeding ten miles per hour. If any person acts in contravention of this provision he shall be liable, on summary conviction, in respect of the first offense to a fine not exceeding ten pounds, and in respect of the second offense to a fine not exceeding twenty pounds, and in respect of any subsequent offense to a fine not exceeding fifty pounds, but a person shall not be convicted under this provision for exceeding the limit of speed twenty miles merely on the opinion of one witness as to the rate of speed.

Subsec. (2). [*Notice of Prosecution*].—Where a person is prosecuted for an offense under this section, he shall not be convicted unless he is warned of the intended prosecution at the time the offense is committed, or unless notice of the intended prosecution is sent to him or to the owner of the car as entered on the register within such time after the offense is committed, not exceeding twenty-one days, as the court think reasonable.

Subsec. (3). [*Revocation or Alteration of Regulations*].—The Local Government Board may, without any application from the local authority, after considering any objections which may be raised by the local authority, revoke or alter any regulation made by them under this section.

Subsec. (4) [*"Local Authority" Defined*].—For the purposes of this section the expression local authority means—

(a) as respects the City of London, the mayor, aldermen and commons of the City of London in common council assembled;

(b) as respects a municipal borough with a population of over ten thousand, according to the last census taken before the passing of this act, the council of the borough; and

(c) as respects any other area, the county council

§ 10. Subsec. (1). [*Notice of Regulations Respecting Use of Cars*].—Local authorities within the meaning of the last preceding section shall give public notice of any regulation of the Local Government Board, made in pursuance of this act, prohibiting or restrict-

ing the use of motor cars on any highway or part of a highway, or limiting the speed of motor cars within any limits or place, and, for the purpose of giving effect to any such regulation, shall place notices in conspicuous places on or near the highway, part of a highway, limits or place to which the regulation refers.

Subsec. (2). [*Signs—Corners, Crossways and Hills*].—Subject to regulations as to size and colors to be made by the Local Government Board, local authorities, within the meaning of the last preceding section, shall within their areas cause to be set up sign posts denoting dangerous corners, cross roads and precipitous places, where such sign posts appear to them to be necessary.

§ 11. Subsec. (1). [*Penalties—Violations of Act Not Specially Provided For*].—A person guilty of an offense under this act, for which no special penalty is provided, shall be liable on summary conviction, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or in the discretion of the court to imprisonment for a period not exceeding three months.

Subsec. (2). [*Appeals from Convictions*].—Any person adjudged to pay a fine exceeding twenty shillings under this act may appeal against the conviction, in the same manner as he may appeal if ordered to be imprisoned without the option of a fine.

§ 12. Subsec. (1). [*Local Government Board—Regulations Respecting Weight of Cars*].—The Local Government Board by regulations made under section six of the principal act may, as respects any class of vehicle mentioned in the regulations, increase the maximum weights of three tons and four tons mentioned in section one of that act, subject to any conditions as to the use and construction of the vehicle which may be made by the regulations.

Subsec. (2). [*Regulations as to Speed*].—The power of the Local Government Board to make regulations under section six of the Locomotives on Highways Act, 1896, shall, as respects motor cars exceeding two tons in weight unladen, include a power to make regulations as to speed.

§ 13. [*"Male Servant" Defined*].—The definition of "male servant" in subsection three of section nineteen of the Revenue Act, 1869, as amended by section five of the Customs and Inland Revenue Act, 1876, shall be construed as if a person employed to drive a motor car were included in that definition.

§ 14. [*Local Government Board—Duties—Act of 1888*].—Subsections one and five of section eighty-seven of the Local Government Act, 1888 (which relates to local inquiries) shall apply for the purpose of the carrying out by the Local Government Board of any of their duties under this act.

§ 15. [*Common Law Liability of Drivers Not Affected*].—Nothing in this act shall affect any liability of the driver or owner of a motor car by virtue of any statute or at common law.

§ 16. [*Persons in Service of Crown*].—It is hereby declared that this act and the principal act apply to persons in the public service of the Crown.

§ 17. Subsec. (1). [*Driving over Menai Bridge—Regulations*].—A motor car shall not be driven on or over Menai Bridge except in accordance with regulations made by the Commissioners of Works.

Subsec. (2). [*Penalties*].—If any person acts in contravention of this section he shall be liable on summary conviction in respect of the first offense to a fine not exceeding ten pounds, and in respect of the second offense to a fine not exceeding twenty pounds, and in respect of any subsequent offense to a fine not exceeding fifty pounds.

§ 18. [*Application of Act to Scotland*].—In the application of this act to Scotland—

Subsec. (1). [*Secretary for Scotland—Powers*].—A reference to the Secretary for Scotland shall be substituted for a reference to the Local Government Board; and

Subsec. (2). [*Reference to Burgh Council*].—A reference to the council of a royal, parliamentary or police burgh, containing within its boundaries, as ascertained, fixed or determined for police purposes, a population according to the census for the time being last taken of or exceeding fifty thousand, shall be substituted for a reference to the council of a county borough, and every other burgh shall be deemed to form part of the county within which it is situate; and

Subsec. (3). [*"Local Authority"—Speed—Signs*].—The road authority of any county or of any royal, parliamentary or police burgh shall be the local authority within the meaning of the provisions of this act which relate to the rate of speed and the erection of danger boards; and

Subsec. (4). [*Local Government Act, 1889*].—A reference to subsections one and three of section ninety-three of the Local Government (Scotland) Act, 1889, shall be substituted for a reference to subsections one and five of section eighty-seven of the Local Government Act, 1888; and

Subsec. (5). [*Recovery of Fines—Imprisonment*].—Any fine under this act shall be recoverable by imprisonment in terms of the Summary Jurisdiction Acts; and

Subsec. (6). [*Appeals from Convictions*].—Any person convicted of an offense under this act and ordered to be imprisoned without the option of a fine or adjudged to pay a fine exceeding ten pounds shall have a right of appeal against the conviction. Such appeal shall lie to the sheriff depute, and shall be heard summarily. Such appeal may be taken either immediately after the judgment appealed against has been pronounced or within seven days thereafter, and upon such appeal being taken the sentence (if any) shall be suspended until the appeal

has been disposed of: Provided that the appellant shall, at the time of taking such appeal, lodge in the hands of the clerk of court a bond with sufficient cautioner, or otherwise give security satisfactory to the court for appearing before the sheriff depute. The sheriff depute is hereby authorized and empowered on such appeal to hear evidence, whether led at the original hearing or not, and to reconsider the merits of the case and reverse or confirm, in whole or in part, the judgment appealed against or give such new or different judgment as he in his discretion shall think fit; and, save as provided by the Summary Prosecutions Appeals (Scotland) Act, 1875, his judgment shall be final and not subject to review; and

Subsec. (7). [*Appeals from Orders of Suspension or Disqualification*].—An appeal, taken in terms of this act by a person holding a license, against an order for suspension or disqualification shall be taken and disposed of as nearly as may be in the manner and subject to the conditions provided by the immediately preceding subsection.

§ 19. [*Application to Ireland*].—In the application of this Act to Ireland—

Subsec. (1) [*Reference to Local Government Board*].—A reference to the Local Government Board for Ireland shall be substituted for a reference to the Local Government Board; and

Subsec. (2). [*Local Government Order, 1898*].—Subsections one and three of article thirty-two of the Local Government (Application of Enactments) Order, 1898, shall be substituted for subsections one and five of section eighty-seven of the Local Government Act, 1888; and

Subsec. (3). [*Convictions—Summary Jurisdiction Act, 1851*].—Section twenty-three of the Summary Jurisdiction (Ireland) Act 1851 (which gives a right of appeal) shall apply as respects convictions for offenses under this act, as if any term of imprisonment without the option of a fine were substituted for a term of imprisonment exceeding one month; and

Subsec. (4). [*Criminal Evidence Act, 1898*].—Sections one to four inclusive of the Criminal Evidence Act, 1898, shall extend to Ireland in the case of a person charged with any offense under this act.

§ 20. Subsec. (1). [*Definitions—"Motor Car"—"Highway"*].—In this act the expression "motor car" has the same meaning as the expression "light locomotive" has in the principal act, as amended by this act, except that, for the purpose of the provisions of this act with respect to the registration of motor cars, the expression "motor car" shall not include a vehicle drawn by a motor car. The provisions of this act and of the principal act shall apply in the case of a roadway to which the public are granted access, in the same manner as they apply in the case of a public highway.

Subsec. (2). [*Time of Taking Effect*].—This act shall come into operation on the first day of January nineteen hundred and four.

Subsec. (3). [*Mode of Citation of Act*].—This act may be cited as the Motor Car Act, 1903; and the Locomotives on Highways Act, 1896, and this act may be cited together as the Motor Car Acts, 1896 and 1903.

§ 21. [*Duration of Act*].—This act shall continue in force till the thirty-first day of December nineteen hundred and six and no longer, unless Parliament shall otherwise determine.

An Act to enable orders in council to be made for the purpose of giving effect to any convention for facilitating the international circulation of motor cars.

[25th November, 1909; 9 Edw. VII., c. 37.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

§ 1. Subdiv. (1). [*International Traffic—Orders in Council*].—His Majesty may, by Order in Council for the purpose of giving effect to any convention for facilitating the international circulation of motor cars, provide—

(a) for the grant and authentication of any traveling passes, certificates, or authorities which may be of use to persons resident in the United Kingdom when temporarily taking their motor cars abroad, or to drivers when proceeding abroad for the purpose of driving motor cars; and

(b) for modifying the provisions of the Motor Car Act, 1903, relating to the registration of motor cars and the licensing of motor car drivers in the case of motor cars brought temporarily into the United Kingdom by persons resident abroad, and intending to make only a temporary stay in the United Kingdom, and of drivers entering the United Kingdom for the purpose of driving any such cars.

Subdiv. (2). [*Modifications of Motor Car Act, 1903*].—Any modifications of the Motor Car Act, 1903, made by an Order in Council under this section shall have effect as if they were contained in that act.

Subdiv. (3). [*Repeal or Amendment of Orders*].—Any Order in Council under this act may be varied or revoked by any subsequent Order in Council under this act.

§ 2. [*Mode of Citation of Act*].—This act may be cited as the Motor Car (International Circulation) Act, 1909.

AEROVEHICLE LEGISLATION.

BILL INTRODUCED IN THE CALIFORNIA LEGISLATURE.

- § 1. Definitions—"Motor Vehicle"—"Driver."
- 2. Subdiv. 1. Registration of Vehicles—Application.
 - 2. Record of Registrations.
 - 3. Seal—Display.
 - 4. Display of Number.
 - 5. Nonresidents.
- 3. Lights.
- 4. Penalty.
- 5. Disposition of Fees.
- 6. Appropriation for Carrying out Act.
- 7. Acts Repealed.
- 8. Time of Taking Effect.

An Act to regulate the operation of motor vehicles in the air and making provisions for the purposes of the carrying out of this act.

[Introduced by Mr. Fitzgerald, Jan. 13, 1911.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

§ 1. [*Definitions—"Motor Vehicle"—"Driver"*].—The words and phrases used in this act shall, for the purpose of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) "motor vehicle" shall include all vehicles propelled by power, other than muscular powers; (2) "driver" shall include any person or persons in control of such vehicle, as owner.

§ 2. Subdiv. 1. [*Registration of Vehicles—Application*].—Every person hereafter owning and operating a motor vehicle which is designed to navigate above ground in the air, for every such vehicle owned by him shall cause to be filed in the office of the secretary of state a statement of his name and address with a brief description of the said vehicle or vehicles to be registered, including the name of the maker, factory number, style of vehicle and motor power, on a blank to be prepared and furnished by such secretary of state for that purpose; the filing fee shall be two dollars.

Subdiv. 2. [*Record of Registrations*].—The secretary of state shall thereupon file such statement in his office, register such motor vehicle

in a book or index to be kept for that purpose, and assign it a distinctive number.

Subdiv. 3. [*Seal—Display*].—The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to such owner of such motor vehicle a seal of suitable metal, circular in form and not over two inches in diameter and have stamped thereon the words, "Registered air motor vehicle No. ———, State of California" with the registration number inserted therein, which seal shall thereafter at all times be conspicuously displayed on such motor vehicle, to which said number has been assigned.

Subdiv. 4. [*Display of Number*].—Every such motor vehicle shall also at all times have the number assigned to it displayed on the vehicle in numerals of over twelve inches in length with an abbreviation of the name of the state in the following manner "Cal."

Subdiv. 5. [*Nonresidents*].—The provisions of this act will not apply to owners of motor vehicles residing out of this state, temporarily using such motor vehicles within this state.

§ 3. [*Lights*].—Every motor vehicle propelled by its own owner in the air above ground, shall, when being so propelled after darkness, display not less than four lights, one in the center of the vehicle in front of the driver, one at the extreme rear of such vehicle and one at each end of the lifting planes of such vehicle, the last two to be, one red and one green, the red light to be placed at the end of the right plane and the green light at the end of the left plane. Such lights must be displayed at all times after darkness that the said vehicle remains in the air above ground.

§ 4. [*Penalty*].—The violation of any of the provisions of this act by any owner or driver or operator of any motor vehicle as hereinbefore described, shall be deemed a misdemeanor, punishable upon conviction thereof, by a fine not exceeding \$100 (one hundred dollars).

§ 5. [*Disposition of Fees*].—The amount of fees received by the secretary of state as in this act provided, shall be paid into the state treasury, to be paid into the general fund of the state.

§ 6. [*Appropriation for Carrying out Act*].—There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of \$5,000 (five thousand dollars) for the purposes of carrying out the objects of this act to be used by the secretary of state in the employment of necessary assistance and securing necessary incidentals, postage, printing, seals, books, index, etc. The state controller is hereby directed to draw his warrant for any claim against such sum, the same have been approved by the state board of examiners, and the state treasurer is hereby directed to pay the same.

§ 7. [*Acts Repealed*].—All acts and parts of acts inconsistent herewith or contrary hereto are, so far as they are inconsistent or contrary, hereby repealed.

§ 8. [*Time of Taking Effect*].—This act shall take effect immediately.

BILL INTRODUCED IN THE CONNECTICUT LEGISLATURE.

- § 1. Registration of Vehicle—Certificate—Fee.
- 2. Qualifications of Aviators.
- 3. Liability of Aviators.
- 4. Penalties.

An act concerning registration and regulation of flying machines.

[Introduced by Senator Spellacy, January session, 1911.]

Be it enacted by the Senate and House of Representatives in General Assembly convened:

§ 1. [*Registration of Vehicle—Certificate—Fee*].—Every owner of a flying machine, dirigible balloon or apparatus intended to be propelled through the air shall file annually in the office of the secretary of state on a blank furnished by said secretary a statement of his name, residence, post office address and a description of such machine or apparatus owned or controlled by him and such other information as shall be required by said secretary. Said secretary or his duly authorized agent shall register such machine or apparatus, assigning to it a distinguishing number or mark and shall thereupon issue to the owner thereof a certificate of registration. Such certificate shall at all times be carried upon such flying machine or apparatus and shall be subject to examination upon demand by any proper officer. The secretary shall collect for each certificate so issued a fee of ten dollars. The registration shall expire at midnight on December thirty-first of each year.

§ 2. [*Qualifications of Aviators*].—No flying machine or apparatus shall be operated within this state unless in charge of some person whose qualifications have been approved in writing by the superintendent of police.

§ 3. [*Liability of Aviators*].—The owner, lessee, or charterer shall be liable for all damage resulting from the use or operation of such flying machine or apparatus, without proof of negligence or fault in its management.

§ 4. [*Penalties*].—Any person violating any provision of this act shall be fined not more than one thousand dollars, or imprisoned not more than five years, or both.

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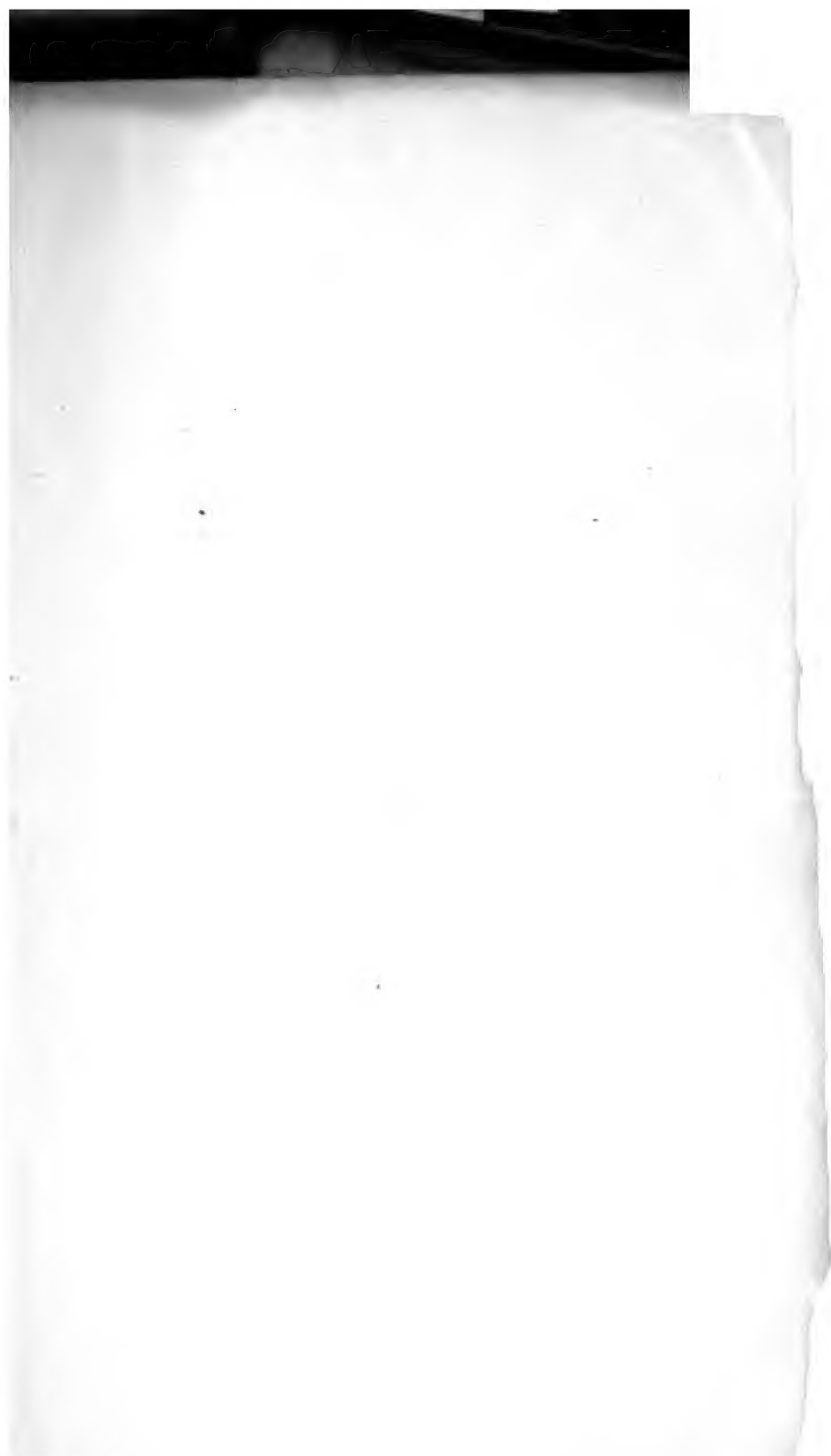
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